

# ATTACHMENT 68

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Page 1

1                   UNITED STATES DISTRICT COURT  
2                   EASTERN DISTRICT OF PENNSYLVANIA  
3  
4   IN RE:    PROCESSED EGG PRODUCTS   MDL NO. 2002  
5   ANTITRUST LITIGATION                                   08-md-02002  
6

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7   THIS DOCUMENT RELATES TO:  
8   ALL ACTIONS  
9

10  
11                   -- HIGHLY CONFIDENTIAL --  
12

13                   VIDEOTAPED DEPOSITION OF STEVE STORM  
14                   PURSUANT TO RULE 30 (b) (6)  
15

16                   Taken at Young, Wells Williams,  
17                   4450 Old Canton Road, Suite 200,  
18                   Jackson, Mississippi, on Friday,  
19                   April 25, 2014, beginning at 9:09 a.m.  
20

21                   REPORTED BY:  
22                   CELESTE O. WERKHEISER, RMR  
23  
24  
25

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1 APPEARANCES: 2 DANIEL E. BIRKHAEUSER, ESQUIRE 3 Bramson, Plutzik, Mahler & Birkhaeuser 4 2125 Oak Grove Road, Suite 120 5 Walnut Creek, California 94598 6 Telephone: (925) 945-0200 7 Fax: (925) 945-8792 8 ATTORNEY FOR INDIRECT PURCHASER 9 PLAINTIFFS 10 AMY N. L. HANSON, ESQUIRE 11 (VIA TELEPHONE) 12 Keller Rohrback, LLP 13 1201 3rd Avenue, Suite 3200 14 Seattle, Washington 98101 15 Telephone: (206) 224-7435 16 ATTORNEY FOR DIRECT PURCHASER 17 PLAINTIFFS 18 WILLIAM GREEN, ESQUIRE 19 (VIA TELEPHONE) 20 Stinson Leonard Street, LLP 21 150 South Fifth Street 22 Suite 2300 23 Minneapolis, MN 55402 24 Telephone: (612) 335-1500 25 Fax: (612) 335-1657 ATTORNEY FOR DEFENDANT, MICHAEL FOODS, INC. 26 BRIAN ROBISON, ESQUIRE 27 Gibson, Dunn & Crutcher, LLP 28 2100 McKinney Avenue 29 Dallas, Texas 75201-6912 30 Telephone: (214) 698-3100 31 Fax: (214) 571-2928 32 -and- 33 34 35	Page 2	Page 4
1 APPEARANCES: (Continued) 2 ROBERT L. HOLLADAY, JR., ESQUIRE 3 Cal-Maine Foods, Inc. 4 3320 W. Woodrow Wilson Avenue 5 Jackson, Mississippi 39209 6 Telephone: (601) 948-4813 7 ATTORNEYS FOR DEFENDANT, CAL-MAINE 8 FOODS 9 PATRICK AHERN, ESQUIRE 10 Ahern & Associates, P.C. 11 Three First National Plaza 12 70 West Madison Street, Suite 1400 13 Chicago, Illinois 60601 14 Telephone: (312) 214-3784 15 ATTORNEY FOR DIRECT ACTION 16 PLAINTIFFS: WINN-DIXIE STORES, INC., 17 H. J. HEINZ, C&S WHOLESALe GROCERS, 18 INC. AND ROUNDIE'S SUPERMARKETS, INC. 19 20 21 22 23 24 25 Videographer: Darren Guastella	Page 3	Page 5

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<p>1 Exhibits: (Continued)</p> <p>2 Exh 107 UEP Producer Committee for Animal Welfare Meeting Minutes 5/10/04.....85</p> <p>3 Exh 108 Joint Meeting of UEP Scientific Advisory Committee and UEP Producer Committee for Animal Welfare Minutes 6/10-11/04.....87</p> <p>4 Exh 109 Animal Welfare and Public Relations Committee Minutes 10/20/04.....90</p> <p>5 Exh 110 UEP Producer Committee for Animal Welfare Meeting Minutes 12/7-8/04.....92</p> <p>6 Exh 111 Minutes of meeting of the UEP Producer Committee for Animal Welfare 1/24/05.....98</p> <p>7 Exh 112 Minutes of the Producer Committee for Animal Welfare dated 4/19/05.....101</p> <p>8 Exh 113 UEP Producer Committee for Animal Welfare Meeting Minutes 12/1/06.....104</p> <p>9 Exh 114 UEP Animal Welfare Committee Meeting Minutes 10/10/06.....106</p> <p>10 Exh 115 Cal-Maine Foods, Inc. and Rose Acre Farms Inc.'s Counterclaim Against Direct Action Plaintiffs.....150</p> <p>11 Certificate of Court Reporter.....158</p> <p>12 Witness Signature Page.....159</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 6</p> <p>1 MR. AHERN:</p> <p>2 Patrick Ahern for Winn-Dixie</p> <p>3 plaintiffs.</p> <p>4 MR. HOLLADAY:</p> <p>5 Rob Holladay, Cal-Maine Foods.</p> <p>6 MR. ROBISON:</p> <p>7 Brian Robison, Cal-Maine Foods.</p> <p>8 COURT REPORTER:</p> <p>9 On the phone?</p> <p>10 MR. GREEN:</p> <p>11 William Green, of Stinson, Leonard, Street, counsel for Michael Foods.</p> <p>12 MS. HANSON:</p> <p>13 And Amy Hanson, from Keller Rohrback, for the direct purchaser plaintiffs.</p> <p>14 STEVE STORM</p> <p>15 having been first duly sworn, was</p> <p>16 examined and testified, as follows:</p> <p>17 EXAMINATION</p> <p>18 BY MR. BIRKHAEUSER:</p> <p>19 Q. Mr. Storm, today we're going to</p> <p>20 conduct your deposition under the Rule 30(b)(6),</p> <p>21 which generally requires you to speak on behalf</p> <p>22 of Cal-Maine.</p> <p>23 And the first topic is your</p>
<p>1 VIDEOGRAPHER:</p> <p>2 My name is Darren Guastella of Veritext. The date today is April the 25th, 2014. The time is approximately 9:09 a.m. The deposition is being held at the offices of Young, Wells, Williams, 4450 Old Canton Road, Suite 200, Jackson, Mississippi 39211.</p> <p>3 The caption of the case is In Re Processed Egg Anti-Trust Litigation in the United States District Court, Eastern District of Pennsylvania. The witness is Steve Storm.</p> <p>4 At this time, the attorneys will identify themselves and the party they represent, after which the court reporter, Celeste Werkheiser, will swear the witness, and we may proceed.</p> <p>5 MR. BIRKHAEUSER:</p> <p>6 Good morning, Mr. Stern.</p> <p>7 THE WITNESS:</p> <p>8 Good morning.</p> <p>9 (Off the record.)</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 I'm Dan Birkhaeuser with Bramson, Plutzik, Mahler &amp; Birkhaeuser, representing the indirect purchaser plaintiffs.</p>	<p>Page 7</p> <p>1 membership and participation in the UEP, including elected and appointed positions you held, committees that you served on, your meeting attendance, motions made, and vows taken at UEP meetings.</p> <p>2 And it's my understanding that you have been designated to speak on this topic on behalf of Cal-Maine, with respect to Cal-Maine's involvement with the UEP animal welfare committee.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Is that correct, Counsel?</p> <p>5 MR. ROBISON:</p> <p>6 Yes, that's right.</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 Q. Okay. Are you indeed the person most knowledgeable at Cal-Maine about Cal-Maine's involvement with the UEP animal welfare committee?</p> <p>9 A. Yes, sir.</p> <p>10 Q. What is the general purpose of the committee?</p> <p>11 A. The committee was formed to develop an animal welfare program for UEP and present it to UEP Board for ratification.</p>

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<p style="text-align: right;">Page 10</p> <p>1 Q. And whose idea was it to form an 2 animal welfare committee?</p> <p>3 A. I'm sure that I was there and 4 involved at that time. I was on the committee 5 after it was formed -- or as it was formed.</p> <p>6 Q. And what was the date of the 7 formation of the committee?</p> <p>8 A. 1999.</p> <p>9 Q. What month?</p> <p>10 A. I'm not certain.</p> <p>11 Q. What's your best recollection?</p> <p>12 A. In the summer of '99. Summer. Might 13 have been May.</p> <p>14 Q. When was the first meeting held?</p> <p>15 A. At that time.</p> <p>16 Q. In the summer of 1999? Were minutes 17 prepared of that meeting?</p> <p>18 A. To my knowledge, yeah. Minutes were 19 prepared for all committee meetings.</p> <p>20 Q. Who prepared the minutes?</p> <p>21 A. UEP staff.</p> <p>22 Q. So that would be Mr. Gregory?</p> <p>23 A. Typically. Almost always.</p> <p>24 Q. How often did the committee meet?</p> <p>25 A. There was no set schedule for</p>	<p style="text-align: right;">Page 12</p> <p>1 committee that was formed as an outshoot of the 2 welfare committee activities, and so, to some 3 extent, they interacted, I guess.</p> <p>4 MR. BIRKHAEUSER:</p> <p>5 Q. How about the scientific committee?</p> <p>6 Did the animal welfare committee interact with 7 the scientific committee?</p> <p>8 MR. ROBISON:</p> <p>9 Object to form. Vague.</p> <p>10 A. The scientific committee was a 11 committee of individuals formed outside of UEP. 12 United Egg Producers asked Dr. Jeff Armstrong to 13 put together a committee for the purpose of 14 producing scientific reasons and to determine 15 proper welfare for chickens.</p> <p>16 The committee met, and I 17 understand -- they were together prior to the 18 producer committee. And at the conclusion of 19 their work when they had documents to present, 20 the producer committee was formed.</p> <p>21 MR. BIRKHAEUSER:</p> <p>22 Q. And by the producer committee, you 23 mean the producer committee for animal welfare.</p> <p>24 A. That's what I mean.</p> <p>25 Q. Do you call it the producer</p>
<p style="text-align: right;">Page 11</p> <p>1 meetings. They met as required.</p> <p>2 In the beginning, there were several 3 meetings where the -- to try to get the program 4 developed. And as time went on, the committee 5 remained in place and now meets predominantly 6 when there are UEP general meetings or Board 7 meetings.</p> <p>8 Q. So at the present time the committee 9 meets when there are UEP Board meetings.</p> <p>10 A. Yes.</p> <p>11 Q. But that wasn't always the case in 12 the past.</p> <p>13 A. And it's not required. It's just -- 14 but that's the history. We were meeting at the 15 time there were Board meetings. Initially, 16 there were additional meetings.</p> <p>17 Q. Additional meetings of the --</p> <p>18 A. Of the committee. Of the animal 19 welfare committee.</p> <p>20 Q. Did the animal welfare committee 21 interact with other committees of the UEP?</p> <p>22 MR. ROBISON:</p> <p>23 Object to form. Vague.</p> <p>24 A. Generally I would say no, however, as 25 time went on, there was a public relations</p>	<p style="text-align: right;">Page 13</p> <p>1 committee?</p> <p>2 A. Sometimes.</p> <p>3 Q. Okay. And also the animal welfare 4 committee?</p> <p>5 A. Yes, sir.</p> <p>6 Q. So if I call it today at the 7 deposition, if I say the "producer committee," 8 you'll understand I mean the producer committee 9 for animal welfare.</p> <p>10 A. Yes, sir, I will.</p> <p>11 Q. If I call it the "animal welfare 12 committee," you'll understand that it's the 13 producer committee for animal welfare.</p> <p>14 Did the producer committee ever 15 attend scientific committee meetings?</p> <p>16 A. No, not as a committee. There was a 17 time or two that the committee chairman attended 18 some of those meetings for a particular purpose, 19 but not routinely.</p> <p>20 MR. ROBISON:</p> <p>21 Just to be clear, when you say the 22 chairman, chairman of which committee?</p> <p>23 A. Chairman of the -- there are times 24 when the chairman of the animal welfare 25 committee, the producer committee has attended</p>

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<p style="text-align: right;">Page 14</p> <p>1 the scientific committee meetings that I know 2 of.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. Did you ever attend a scientific 5 committee meeting?</p> <p>6 A. No, sir.</p> <p>7 Q. Where did the scientific committee 8 meet?</p> <p>9 A. I don't know. I think, in various 10 places, but I don't know where they met.</p> <p>11 Q. Did the producer committee for animal 12 welfare always meet in person?</p> <p>13 A. I'm sorry? Would you ask it again?</p> <p>14 Q. Did the producer committee always 15 meet in person?</p> <p>16 A. No, occasionally by conference call.</p> <p>17 Q. Was there correspondence amongst 18 members of the producer committee, e-mails or 19 letters, that you're aware of?</p> <p>20 MR. ROBISON:</p> <p>21 Object to form. Vague.</p> <p>22 A. From time to time. Just usually to 23 follow up on some assigned task or something to 24 that extent that result -- resulting from a 25 committee meeting.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Did Mr. Gregory attend every meeting?</p> <p>2 A. In the early years, yes. He was 3 the -- there's always a staff UEP person that 4 attends every committee meeting, so somebody 5 from staff's assigned to every committee, and he 6 was the one that handled those duties for the 7 UEP organization.</p> <p>8 Q. Did Mr. Chad Gregory attend the 9 meetings?</p> <p>10 A. Not routinely, but he did from time 11 to time.</p> <p>12 Q. Can we take a look at Exhibit 85 from 13 yesterday? Do you have that in front of you, 14 sir?</p> <p>15 A. I have 85.</p> <p>16 Q. Exhibit 85 is a copy of the minutes 17 of a May 15, 2000, producer committee for animal 18 welfare, correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. The minutes indicate that there were 21 several consultants that attended the meeting.</p> <p>22 Who's Mr. Steve Rieger?</p> <p>23 A. Rieger.</p> <p>24 MR. ROBISON:</p> <p>25 Object to form.</p>
<p style="text-align: right;">Page 15</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. Did the producer committee ever 3 create subcommittees?</p> <p>4 A. I'm aware that an audit committee was 5 created as a subcommittee to the producers' 6 animal welfare committee.</p> <p>7 Q. And when did that happen?</p> <p>8 A. It happened about the -- after the 9 first round of audits or so, about, I'm going to 10 say, 2003 or '4. As -- after the program was 11 installed and after audits came around and it 12 became necessary to review the audit from 13 year-to-year, update it as necessary, the audit 14 committee would make recommendations and carry 15 it back to the producer committee.</p> <p>16 Q. And you used the word "installed" in 17 your answer. When in your mind was the program 18 installed?</p> <p>19 MR. ROBISON:</p> <p>20 Object to form. Vague.</p> <p>21 A. Approximately 2002 is when people 22 began to join the certified program.</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Q. That was about April of 2002?</p> <p>25 A. Could be, yes, sir.</p>	<p style="text-align: right;">Page 17</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. Did Mr. Steve Rieger attend the 3 meeting?</p> <p>4 A. I think he did.</p> <p>5 Q. Who is Mr. Rieger?</p> <p>6 A. Mr. Rieger, at one time he was 7 employed by Hy-Line hatcheries. I don't know if 8 he was at this time or not.</p> <p>9 Q. In what capacity did Mr. Rieger 10 consult?</p> <p>11 MR. ROBISON:</p> <p>12 Object to form. Vague.</p> <p>13 A. I'm not precisely sure what the -- 14 this is early in the process, and all of these 15 people listed as consultants, most of them were 16 on the scientific committee. They were there 17 because there were a lot of questions by the 18 producer committee members regarding the 19 document referred to here as Humane Guidelines 20 for U.S. Egg Laying Flocks, which was the one 21 prepared by the scientific committee for UEP.</p> <p>22 And so all -- any of them would have 23 been there for just interpretation of this -- 24 what do you mean when you say -- you know, a 25 particular guideline.</p>

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<p>1 MR. BIRKHAEUSER:</p> <p>2 Q. Was Mr. Rieger on the scientific 3 committee?</p> <p>4 A. I don't think he was.</p> <p>5 Q. Who is Dr. Joy Mench?</p> <p>6 A. Dr. Joy Mench was on the scientific 7 committee.</p> <p>8 Q. And do you know Dr. Mench?</p> <p>9 A. I've met Dr. Mench before. I'm 10 not -- I don't think I would consider myself an 11 acquaintance at all.</p> <p>12 Q. Do you know anything about 13 Dr. Mench's background?</p> <p>14 A. No. I think -- there's several of 15 the members, especially originally, that were 16 animal welfare specialists or interested in 17 animal welfare. Their career had taken them in 18 that direction.</p> <p>19 And different ones were -- had 20 specialized areas. Some were interested in just 21 the behavior of laying hens. Others were 22 interested in beak trimming. Others were 23 interested in various phases or various points. 24 They were -- I understood some of them were 25 selected because they wanted a broad input for</p>	Page 18	<p>1 free hand to select who he wanted after that, to 2 my knowledge.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. Okay. I'm going to ask the question 5 again because it got interrupted. The UEP did 6 have -- did participate in the composition of 7 the scientific committee?</p> <p>8 MR. ROBISON:</p> <p>9 Objection. Mischaracterizes.</p> <p>10 A. Well, to me, that question means that 11 they had input to selecting all the members, and 12 that answer is no. They had input to select the 13 Chairman of that committee.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. Who's Dr. Jeff Armstrong?</p> <p>16 A. He was the -- he was selected to be 17 Chairman of the animal welfare committee -- 18 pardon me, the scientific committee, animal 19 welfare scientific committee. At that time, he 20 was a professor at Purdue University.</p> <p>21 Q. And what was Dr. Armstrong's 22 specialty?</p> <p>23 A. I'm not sure what his specialty was.</p> <p>24 Q. How long had he been a professor at 25 Purdue University in May of 2000?</p>	Page 20
<p>1 all areas that needed consideration.</p> <p>2 Q. Did you have anything to do with the 3 selection of the members of the scientific 4 community?</p> <p>5 A. No, not at all. I don't think anyone 6 from UEP did.</p> <p>7 Q. Your answer is that you don't think 8 anyone from UEP had anything to do with the 9 selection of the scientific committee members?</p> <p>10 A. UEP selected Dr. Jeff Armstrong to 11 put together a committee.</p> <p>12 Q. Okay. And Mr. Armstrong was on the 13 committee.</p> <p>14 A. He was the Chairman of that 15 committee, and then he populated the committee, 16 or these committee members.</p> <p>17 Q. So UEP -- I'm sorry.</p> <p>18 A. That's all.</p> <p>19 Q. Okay. So the UEP did have something 20 to do with the selection of committee members of 21 the scientific committee?</p> <p>22 MR. ROBISON:</p> <p>23 Object to form. Mischaracterizes.</p> <p>24 A. They had something to do with the 25 selection of Dr. Jeff Armstrong, but he had a</p>	Page 19	<p>1 A. I don't know. I was not involved in 2 his selection personally.</p> <p>3 Q. Who's Dr. Janice Swanson?</p> <p>4 A. She's a member of the committee 5 selected by Dr. Armstrong. At the time -- 6 initially she was -- I do happen to know that 7 she was at Kansas State University.</p> <p>8 Q. You said that she was a member of the 9 committee. By that, you mean the scientific 10 committee?</p> <p>11 A. Yes, I do.</p> <p>12 Q. What was Dr. Swanson's specialty?</p> <p>13 A. You know, I hate -- she was more in 14 behavioral aspects of chickens. And I would 15 hate to try to define it further because, truly, 16 I get them confused from, you know, some of 17 these individuals.</p> <p>18 Q. So as you sit here today, you're not 19 aware of the specialty of Dr. Swanson?</p> <p>20 A. No. She was a welfare specialist 21 regarding chickens. That's for sure.</p> <p>22 Q. Who was Mr. Donald Bell?</p> <p>23 A. Don Bell was a professor at -- I 24 think, at University of California system at 25 Riverside, I believe, for many years.</p>	Page 21

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<p>1     Q.   What was Mr. Bell's specialty?</p> <p>2     A.   I'm not sure. He was not -- I do</p> <p>3     know that he was not a welfare -- his specialty</p> <p>4     was not animal welfare. His specialty was</p> <p>5     broader than that, but involving the chicken and</p> <p>6     egg industry.</p> <p>7     Q.   What were the names of the other</p> <p>8     scientific committee members in May 2000?</p> <p>9     A.   I'm not sure I can call them all. I</p> <p>10    think Scotti Hester was one. Let's see. We had</p> <p>11    Joy Mench and Janice Swanson. There were at</p> <p>12    least a couple of more. I'm not sure who.</p> <p>13    Q.   What was Mr. Hester's specialty?</p> <p>14    A.   Ms. Hester.</p> <p>15    Q.   Ms. Hester?</p> <p>16    A.   Uh-huh.</p> <p>17    Q.   I thought you said Scott, I'm sorry.</p> <p>18    A.   Scotti.</p> <p>19    Q.   Okay. What was Ms. Hester's</p> <p>20    specialty?</p> <p>21    A.   I think it was welfare. And I think</p> <p>22    it had more to do with beak trimming.</p> <p>23    Q.   In this May 15, 2000, meeting, the</p> <p>24    committee moved to accept the recommendations</p> <p>25    and goals of the scientific committee with the</p>	<p>Page 22</p> <p>1     Object to form.</p> <p>2     MR. BIRKHAEUSER:</p> <p>3     Q.   Is that your recollection?</p> <p>4     A.   Oh, pardon me. October meeting?</p> <p>5     They were prepared after the May meeting.</p> <p>6     Q.   It refers to an October Board</p> <p>7     meeting; is that correct?</p> <p>8     MR. ROBISON:</p> <p>9         Object to form.</p> <p>10    A.   I see that. In the motion, it said</p> <p>11    that the producer animal welfare committee</p> <p>12    accepted the hard work of the scientific</p> <p>13    committee and thanked them, said we're going to</p> <p>14    take this, and in this motion it says that</p> <p>15    they're going to work on phases of this and</p> <p>16    present it at the October meeting.</p> <p>17    MR. BIRKHAEUSER:</p> <p>18    Q.   And the October meeting is five</p> <p>19    months away.</p> <p>20    A.   Yes.</p> <p>21    Q.   And then in the parenthetical, we</p> <p>22    know the results of the October meeting,</p> <p>23    correct?</p> <p>24    MR. ROBISON:</p> <p>25         Object to form.</p>
<p>Page 23</p> <p>1     implementation plans of phasing in the cage</p> <p>2     space allowance to be presented for approval at</p> <p>3     the October Board meeting, correct?</p> <p>4     MR. ROBISON:</p> <p>5         Object to the form.</p> <p>6     Mischaracterizes.</p> <p>7     A.   Yes. I think it notes a motion to</p> <p>8     that extent.</p> <p>9     MR. BIRKHAEUSER:</p> <p>10    Q.   After the discussion of the mandatory</p> <p>11    program and the voluntary program and the</p> <p>12    implementation timeline, there's a</p> <p>13    parenthetical. Do you see that?</p> <p>14    A.   Yes.</p> <p>15    Q.   These minutes were in May, correct?</p> <p>16    A.   Yes, from the May meeting.</p> <p>17    Q.   And the parenthetical notes that the</p> <p>18    Board of Directors took a position in opposition</p> <p>19    to any legislative efforts to create a mandatory</p> <p>20    program; is that correct?</p> <p>21    A.   Yes. That's what it says.</p> <p>22    Q.   So these minutes were prepared after</p> <p>23    the October meeting?</p> <p>24    A.   Obviously.</p> <p>25    MR. ROBISON:</p>	<p>Page 25</p> <p>1     A.   I don't see that at all. It just</p> <p>2     says that, you know -- I don't know where the</p> <p>3     information from that parenthetical comes from.</p> <p>4     MR. BIRKHAEUSER:</p> <p>5     Q.   Okay.</p> <p>6     A.   Or -- it just is -- as a side note to</p> <p>7     these minutes, it notes that the Board is in</p> <p>8     opposition to legislative efforts for a</p> <p>9     mandatory program.</p> <p>10    Q.   When we state the October Board</p> <p>11    meeting -- I'm sorry, strike that.</p> <p>12    In the motion itself, it refers to an</p> <p>13    October Board meeting. What Board is that</p> <p>14    motion referring to?</p> <p>15    A.   The UEP Board. All action of the</p> <p>16    animal welfare committee is -- their</p> <p>17    recommendations don't carry weight except that</p> <p>18    it's a recommendation to the Board for further</p> <p>19    consideration to accept or reject or deal with</p> <p>20    it.</p> <p>21    Q.   In May 2000, who were the Board</p> <p>22    members of the UEP?</p> <p>23    MR. ROBISON:</p> <p>24         Object to form. Foundation.</p> <p>25    A.   Well, I'm sure that's a matter of</p>

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<p>1 record, but I don't know who all.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. Do you remember any of the Board</p> <p>4 members?</p> <p>5 MR. ROBISON:</p> <p>6 Same.</p> <p>7 A. I'm sure Cal-Maine had -- at that</p> <p>8 time, I would expect Dolph Baker and Ken Looper,</p> <p>9 but others -- you know, there were others that</p> <p>10 were typically on the Board, and I can probably</p> <p>11 name most -- a lot of them, but I don't know</p> <p>12 that for positive.</p> <p>13 (Exhibit 95 marked.)</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 For those on the phone, we are</p> <p>16 marking Exhibit 95, and it bears the Bates</p> <p>17 number UE0153177, and it's a two-page document.</p> <p>18 Q. Do you recognize Exhibit 95, sir?</p> <p>19 A. Yes.</p> <p>20 Q. And is this a true copy of the UEP</p> <p>21 animal welfare committee meeting dated</p> <p>22 October 11, 2000?</p> <p>23 A. I believe it is.</p> <p>24 Q. Do you recall traveling to Ponte</p> <p>25 Vedra Beach, Florida?</p>	Page 26	<p>1 birds are in cages.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. So it would deal with the amount of</p> <p>4 ammonia that was going to be permissible in the</p> <p>5 cages.</p> <p>6 MR. ROBISON:</p> <p>7 Same.</p> <p>8 A. Yes.</p> <p>9 MR. BIRKHAEUSER:</p> <p>10 Q. And the animal welfare committee was</p> <p>11 considering a motion dealing with the</p> <p>12 permissible amount of ammonia, correct?</p> <p>13 MR. ROBISON:</p> <p>14 Object to form.</p> <p>15 A. Yes. This was one of all the</p> <p>16 important items which were discussed. It was</p> <p>17 presented by the scientific committee and then</p> <p>18 was reviewed, discussed, in order to produce a</p> <p>19 document that the membership could use in their</p> <p>20 production facilities.</p> <p>21 And so this is early in the process.</p> <p>22 It was dealing with that issue at that time to</p> <p>23 take the scientific committee recommendation and</p> <p>24 wind up with a guideline for our membership.</p> <p>25 MR. BIRKHAEUSER:</p>	Page 28
<p>1 A. I do. Got in very late that night.</p> <p>2 Q. Have you had a chance to -- all</p> <p>3 right. In these minutes it reflects that the</p> <p>4 committee was discussing husbandry guidelines;</p> <p>5 is that correct?</p> <p>6 A. Yes. That's referring to the</p> <p>7 scientific committee document.</p> <p>8 Q. Okay. Can you look at the husbandry</p> <p>9 guidelines, number 3?</p> <p>10 A. Yes.</p> <p>11 Q. Guideline number 3 concerns ammonia</p> <p>12 concentration, correct?</p> <p>13 A. Yes, it does.</p> <p>14 Q. And ammonia is a by-product of the</p> <p>15 decomposition of urine, correct?</p> <p>16 A. I think it probably is.</p> <p>17 Q. And feces also?</p> <p>18 A. I would say so.</p> <p>19 Q. And this guideline deals with</p> <p>20 permissible amounts of ammonia in cages,</p> <p>21 correct?</p> <p>22 MR. ROBISON:</p> <p>23 Object to form.</p> <p>24 A. It deals with ammonia concentration</p> <p>25 to which the birds are exposed. And, yes, those</p>	Page 27	<p>1 Q. The scientific committee was</p> <p>2 recommending a limit of 25 parts per million of</p> <p>3 ammonia at that time, correct?</p> <p>4 A. Yeah. I think that's correct.</p> <p>5 Q. And the animal welfare committee</p> <p>6 ultimately recommended a limit of 50 parts per</p> <p>7 million; is that correct?</p> <p>8 MR. ROBISON:</p> <p>9 Object to form. Vague.</p> <p>10 A. Yes, that is correct.</p> <p>11 MR. BIRKHAEUSER:</p> <p>12 Q. So the animal welfare committee was</p> <p>13 permitting a level of ammonia concentration that</p> <p>14 was twice that of the recommendation of the</p> <p>15 scientific committee.</p> <p>16 MR. ROBISON:</p> <p>17 Objection. Vague.</p> <p>18 A. 50 is 25 times two.</p> <p>19 MR. BIRKHAEUSER:</p> <p>20 Q. Cage stocking density was also</p> <p>21 discussed at this meeting, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Do you recall the discussion?</p> <p>24 A. Well, again, these are early</p> <p>25 discussions and before the first program was</p>	Page 29

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<p>1 completed for -- and presented to the Board.  2 As I recall, the scientific committee  3 recommended stocking density of 67 to 80, a  4 range. And we were trying to deal with that  5 because the prevalent stocking densities in the  6 industry ranged from approximately 48 to 50 -- a  7 little in excess of 50 inches.  8 And so the discussion pertained to  9 how are we going to deal with this, how are we  10 going to make this work.  11 Q. When you say cage stocking density,  12 what do you mean?  13 A. That means how many birds you put in  14 a cage and how much room that bird has within  15 the cage.  16 Q. And so a cage stocking density of 67  17 would mean what?  18 A. 67 square inches per bird.  19 Q. And how big were the most prevalent  20 cages at that time?  21 A. Well, there are a lot of different  22 cage sizes. At that time, the largest ones were  23 probably -- would probably have, say, 480 square  24 inches in a cage, and they're just probably a  25 dozen different sizes that were smaller than</p>	Page 30	Page 32
<p>1 that, and some that were even larger.  2 Q. So in a typical 480-square-inch cage,  3 how many birds were housed in that cage before  4 the guidelines?  5 MR. ROBISON:  6 Objection. Vague.  7 A. That was determined by each  8 individual producer that owned the cage and the  9 house.  10 MR. BIRKHAEUSER:  11 Q. Did Cal-Maine have 480-square-inch  12 cages?  13 MR. ROBISON:  14 Object to form. Vague.  15 A. We had a few.  16 MR. BIRKHAEUSER:  17 Q. And before the guidelines, how many  18 hens would Cal-Maine put in the 480-square-inch  19 cage?  20 A. At the beginning of the guidelines,  21 in those cages we housed nine birds in those  22 cages, which would come out to a little more  23 than 50 inches per bird.  24 Q. Did other producers put more birds  25 in --</p>	Page 31	Page 33

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<p>1 these activities. Is that correct?</p> <p>2 A. That's the motion.</p> <p>3 Q. And that motion passed, correct?</p> <p>4 A. Yes.</p> <p>5 Q. To pass a motion in the producer</p> <p>6 committee, what was required?</p> <p>7 A. Well --</p> <p>8 MR. ROBISON:</p> <p>9 Object to form. Vague.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. I'm sorry. Let me rephrase that</p> <p>12 question. Was a simple majority required to</p> <p>13 approve a motion in the producer committee?</p> <p>14 A. Yes.</p> <p>15 Q. And what was a quorum? What</p> <p>16 constituted a quorum of the producer committee?</p> <p>17 A. I'm not sure I know that.</p> <p>18 Q. Do you know how many members the</p> <p>19 committee, the producer committee had at its</p> <p>20 inception?</p> <p>21 A. No, not offhand. The membership</p> <p>22 could change every year. Committees were</p> <p>23 assigned annually by the Chairman of UEP.</p> <p>24 Committee chairman were also assigned annually.</p> <p>25 Q. Did the composition of the producer</p>	Page 34	<p>1 A. Yes, sir.</p> <p>2 Q. Is this a true copy of the minutes of</p> <p>3 a meeting of the UEP producer committee for</p> <p>4 animal welfare held on October 17, 2001?</p> <p>5 A. Appears so.</p> <p>6 Q. The meeting was held in Henderson,</p> <p>7 Nevada. Do you recall attending?</p> <p>8 A. This is the one I yesterday mentioned</p> <p>9 that I could not be certain I attended --</p> <p>10 Q. Okay.</p> <p>11 A. -- personally.</p> <p>12 Q. Generally, what's being discussed in</p> <p>13 this meeting is the schedule for phasing in the</p> <p>14 space allowance requirements, correct?</p> <p>15 A. That's one of the items, yes.</p> <p>16 Q. Okay. Do you recall discussing</p> <p>17 yesterday Mr. Looper's presentation on phasing</p> <p>18 in the cage space requirements?</p> <p>19 A. Yes.</p> <p>20 Q. And Mr. Looper was of the opinion</p> <p>21 that the phase-in could occur more quickly given</p> <p>22 normal mortality of hens, correct?</p> <p>23 MR. ROBISON:</p> <p>24 Object to form.</p> <p>25 A. He presented some numbers that</p>	Page 36
<p>1 committee change over time?</p> <p>2 A. Yes.</p> <p>3 Q. Did the membership of the producer</p> <p>4 committee increase or decrease over time?</p> <p>5 A. Generally increased.</p> <p>6 Q. Were there any bylaws of the producer</p> <p>7 committee?</p> <p>8 A. No. We operated as a committee of</p> <p>9 the UEP.</p> <p>10 Q. The motion that carried at the</p> <p>11 May 14, 2001, producer committee, do you know if</p> <p>12 that was altered at any time?</p> <p>13 A. Do you mean has it changed since</p> <p>14 then?</p> <p>15 Q. Yes.</p> <p>16 A. I don't know. Offhand I can't tell</p> <p>17 you if it passed the full Board. This was</p> <p>18 just -- it carried committee and was presented</p> <p>19 to the full Board.</p> <p>20 (Exhibit 97 marked.)</p> <p>21 MR. BIRKHAEUSER:</p> <p>22 For the record, we've just marked</p> <p>23 Exhibit 97, which is CM00275722 through 24. Can</p> <p>24 you tell me when you've finished reviewing the</p> <p>25 document, sir?</p>	Page 35	<p>1 involved factoring in normal mortality. I'm not</p> <p>2 sure he was saying it could happen more quickly.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. Okay. Can you review the second to</p> <p>5 last paragraph on the first page of Exhibit 97?</p> <p>6 A. The one after the motion?</p> <p>7 Q. Yes.</p> <p>8 A. Okay.</p> <p>9 Q. Does that refresh your recollection</p> <p>10 as to whether Mr. Looper was of the opinion --</p> <p>11 A. Yes.</p> <p>12 Q. -- that the cage space requirements</p> <p>13 could be implemented more quickly?</p> <p>14 A. This paragraph in the minutes says</p> <p>15 that he presented that concept and said that it</p> <p>16 could be implemented much quicker.</p> <p>17 Q. Did you have discussions with</p> <p>18 Mr. Looper about the phase-in schedule in and</p> <p>19 around October 2001?</p> <p>20 A. I think I did, just in general.</p> <p>21 Q. Did Mr. Looper speak to others about</p> <p>22 his opinions about the phase-in schedule --</p> <p>23 MR. ROBISON:</p> <p>24 Object to form.</p> <p>25 MR. BIRKHAEUSER:</p>	Page 37

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<p style="text-align: right;">Page 38</p> <p>1 Q. -- to your knowledge?</p> <p>2 MR. ROBISON:</p> <p>3 Foundation.</p> <p>4 A. I don't know.</p> <p>5 MR. BIRKHAEUSER:</p> <p>6 Q. Do you know whether he spoke at UEP</p> <p>7 meetings?</p> <p>8 A. Oh, he was on the Board, so if it</p> <p>9 came up on the Board meeting, I'm sure he spoke</p> <p>10 to the Board.</p> <p>11 Q. You don't recall specific instances</p> <p>12 when you were in attendance?</p> <p>13 A. No. I generally was not in</p> <p>14 attendance at Board meetings.</p> <p>15 Q. How about general meetings?</p> <p>16 A. The same. General meeting is a</p> <p>17 formality at one of the Board meetings to elect</p> <p>18 officers, if you're referring to a general UEP</p> <p>19 meeting.</p> <p>20 Q. I'm referring to a general UEP</p> <p>21 meeting. And I'll just rephrase the question.</p> <p>22 Do you recall Mr. Looper speaking at any general</p> <p>23 UEP meetings about the phase-in of cage space</p> <p>24 requirements?</p> <p>25 A. Well, the -- you know, Mr. Looper was</p>	<p style="text-align: right;">Page 40</p> <p>1 discussion about reaching a compromise on, you</p> <p>2 know, where we wind up in doing this and how do</p> <p>3 we do it and do it in a manner that the</p> <p>4 membership would want to accept it and we could</p> <p>5 move forward.</p> <p>6 And at this particular point in time,</p> <p>7 exactly what all this meant -- this was a part</p> <p>8 of that ongoing discussion.</p> <p>9 Q. And as of October 17, the producer</p> <p>10 committee for animal welfare had not reached</p> <p>11 conclusions about the phase-in of the cage space</p> <p>12 requirements, correct?</p> <p>13 MR. ROBISON:</p> <p>14 Object to the form.</p> <p>15 A. It's still under discussion here.</p> <p>16 MR. BIRKHAEUSER:</p> <p>17 Q. Okay.</p> <p>18 A. Well, there were guidelines in 2000.</p> <p>19 And it spoke to a phase-in, but it didn't define</p> <p>20 how you got there and so forth. So it was --</p> <p>21 the guidelines initially written -- that were</p> <p>22 written by the producer committee utilizing the</p> <p>23 information from the scientific committee, they</p> <p>24 were completed, but they were not endorsed -- or</p> <p>25 they were officially accepted, but they were not</p>
<p style="text-align: right;">Page 39</p> <p>1 an active member of the Board. And he spoke to</p> <p>2 the Board and dealt with the Board, and I'm sure</p> <p>3 he had a lot of input and was able to express</p> <p>4 his opinions in the Board meetings.</p> <p>5 The problems here, this was -- at</p> <p>6 this point in time, there was difficulty in --</p> <p>7 to get the producers of UEP to accept the moving</p> <p>8 from where they were to the recommendations of</p> <p>9 the scientific committee. And so a lot of these</p> <p>10 discussions were exploring the concept of not</p> <p>11 going there all at once, that it would be too</p> <p>12 disruptive, and that you would not have the time</p> <p>13 to replace those chickens, so they needed to</p> <p>14 spread things out.</p> <p>15 And there was a -- and I don't</p> <p>16 remember exactly in relation to this meeting,</p> <p>17 but there were various time schedules suggested</p> <p>18 for converting to that, as much as 12 years.</p> <p>19 And then it was -- then the concept of house</p> <p>20 averaging became involved, and that made it more</p> <p>21 palatable for the membership to accept.</p> <p>22 And then FMI is involved here, and</p> <p>23 they were requesting that the time frame be</p> <p>24 reduced more.</p> <p>25 So, you know, all of this was a</p>	<p style="text-align: right;">Page 41</p> <p>1 employed. Nobody could do them. They couldn't</p> <p>2 afford to do them.</p> <p>3 And one hang up was how in the world</p> <p>4 do you get from current stocking practices to</p> <p>5 the required ones. And it was a terrific jump.</p> <p>6 Q. And the animal welfare committee had</p> <p>7 not yet developed a schedule for the phase-in of</p> <p>8 the cage space requirements.</p> <p>9 MR. ROBISON:</p> <p>10 Object to form. Mischaracterizes.</p> <p>11 Asked and answered.</p> <p>12 A. Well, they were discussing that</p> <p>13 phase-in here.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. Correct.</p> <p>16 A. And this is not the one we wound up</p> <p>17 with, so I'd say we had not completed that at</p> <p>18 this point.</p> <p>19 Q. And indeed, on the second page, we</p> <p>20 still have discussion about the phase-in going</p> <p>21 from -- generally from February 2003 to June</p> <p>22 2006, correct?</p> <p>23 A. Right.</p> <p>24 MR. ROBISON:</p> <p>25 Objection. Incomplete.</p>

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<p style="text-align: right;">Page 42</p> <p>1 A. It appears so. 2 (Exhibit 98 marked.) 3 MR. BIRKHAEUSER: 4 For the record, we're marking as 5 Exhibit 98 a document entitled UE0174658 through 6 59. 7 Q. Have you had a chance to review 8 Exhibit 98? 9 A. Yes, sir. 10 Q. Is Exhibit 98 a true copy of the 11 minutes of the producer committee for animal 12 welfare dated November 14, 2001? 13 A. Yes, I believe so. 14 Q. Did you attend that meeting? 15 A. Yes. 16 Q. You remember traveling to Chicago? 17 A. Yes, sir. 18 Q. So we're now in November of 2001, and 19 the committee is still discussing a phase-in 20 timeline for the cage space allowance, correct? 21 A. Correct. 22 Q. And the committee is considering two 23 different options; is that correct? 24 A. No, I don't think there were two 25 options that they were considering.</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. In what way is that not correct? 2 A. It says that for beginning August 5, 3 2005, all birds hatched from that point forward 4 would then be housed at the 67 inches; but, 5 August 2005 was not the point that all birds 6 would be at 67 inches. 7 Q. Okay. So the end date for compliance 8 with the 67 average square inches per hen was 9 August 1, 2005, but it would be limited to hens 10 that were hatched after that date. 11 A. Yes. And by the time the entire 12 flock got there would depend on how long you 13 kept chickens. If you had a young flock in 14 July, it might be two years before they had to 15 comply. 16 Q. Okay. That motion was defeated, 17 correct? 18 A. Yes. 19 Q. The second motion was that -- had an 20 end date where the 64 average square inches per 21 hen hatched on or after April 1, 2005; is that 22 correct? 23 A. Yes. 24 Q. They would have to achieve 67 average 25 square inches per hen. And that's an earlier</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. The committee had two motions that 2 were presented at the November 14, 2001 -- 3 A. I'll say there were two options 4 presented for -- 5 Q. Please let me finish my question 6 because if you don't then your answer doesn't 7 respond to my question. 8 So the committee was considering two 9 motions for the phase-in of cage space 10 requirements at its November 14, 2001 meeting; 11 is that correct? 12 A. Well, according to the minutes, we 13 considered three motions, one after the other, 14 and two of them appeared to deal with cage 15 space. 16 Q. Thank you. So the committee 17 considered two motions related to cage space. 18 A. Is there a question? 19 Q. Is that true? 20 A. Yes. 21 Q. The first motion had an ultimate date 22 of August 1, 2005, for achieving the 67 average 23 square inches per hen; is that correct? 24 A. Not precisely, no, that's not 25 correct.</p>	<p style="text-align: right;">Page 45</p> <p>1 date than the motion that was rejected by the 2 Board. 3 A. Yes. 4 MR. ROBISON: 5 Committee. 6 MR. BIRKHAEUSER: 7 Q. Sorry. The April 1 deadline was 8 earlier than the August 1 deadline that was 9 rejected by the Board? 10 MR. ROBISON: 11 Same. Committee. 12 A. Yes. 13 MR. BIRKHAEUSER: 14 Q. The committee. I'm sorry. The 15 phase-in schedule approved by the committee 16 started with a hatch date of April 1, 2002, 17 correct? 18 A. Within the time frame of this 19 meeting, that's correct. 20 Q. So in November of 2001, the motion 21 that the producer committee passed had a 22 beginning date of hens hatched on or after 23 April 1, 2002? 24 A. I'm sorry. You need to ask me again, 25 please.</p>

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<p>1 Q. Sure. The motion that was approved 2 by the animal welfare committee in November of 3 2001 had the phase-in schedule based upon a 4 hatch date of April 1, 2002? I'm sorry, 2000 -- 5 yeah, 2002.</p> <p>6 MR. ROBISON:</p> <p>7 Object to form.</p> <p>8 A. 2002 was the first point of change, 9 and that would be at 61 inches, it says here.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. Right.</p> <p>12 A. Yes.</p> <p>13 Q. That would be the first step of the 14 phase-in.</p> <p>15 A. Yes, sir.</p> <p>16 Q. And that's what the animal welfare 17 committee passed in November -- on November 14 18 of 2001.</p> <p>19 A. Yes. It's right here in the minutes.</p> <p>20 Q. So the first phase would be scheduled 21 to commence in about five months, five months 22 after the committee meeting.</p> <p>23 MR. ROBISON:</p> <p>24 Object to form.</p> <p>25 A. Yes.</p>	<p>Page 46</p> <p>1 either in -- either the full Board or at some 2 other point, there were further changes, so -- 3 but to your point, we signed up in -- prior 4 to -- or by April.</p> <p>5 MR. BIRKHAEUSER:</p> <p>6 Q. Cal-Maine was planning on -- 7 Cal-Maine had discussed internally whether it 8 would become a certified company under the UEP 9 guidelines, correct?</p> <p>10 MR. ROBISON:</p> <p>11 Objection. Outside the scope.</p> <p>12 A. Yes. The -- our largest customer had 13 included this in their specifications. And --</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. Let me just cut you off there.</p> <p>16 A. Oh, okay.</p> <p>17 Q. The question was Cal-Maine had 18 discussed the matter internally.</p> <p>19 MR. ROBISON:</p> <p>20 Objection. Outside the scope of the 21 notice.</p> <p>22 A. Cal-Maine had discussed the matter 23 internally, of course.</p> <p>24 MR. BIRKHAEUSER:</p> <p>25 Q. And Cal-Maine's Vice President of</p>	<p>Page 48</p>
<p>1 MR. BIRKHAEUSER:</p> <p>2 Q. Will you look at Exhibit 87, sir? So 3 by April of 2002, Cal-Maine had already signed 4 up for the certification program, correct?</p> <p>5 MR. ROBISON:</p> <p>6 Object to form. Mischaracterizes.</p> <p>7 A. Yes. I think that's what's indicated 8 here. This is not a Cal-Maine document. It's 9 an e-mail from other sources, but it has 10 attached a list of animal husbandry certified 11 companies. And we were -- we signed up fairly 12 early in that process.</p> <p>13 MR. BIRKHAEUSER:</p> <p>14 Q. So by the time the phase-in was ready 15 to commence, Cal-Maine had --</p> <p>16 A. Well --</p> <p>17 Q. -- submitted its application for 18 certification.</p> <p>19 MR. ROBISON:</p> <p>20 Objection. Mischaracterizes.</p> <p>21 A. -- if you're referring to our 22 discussion on the prior exhibit, that phase-in 23 schedule that we just discussed was -- were 24 motions in committee, and it's still not the one 25 that we employed. So somewhere along the way,</p>	<p>Page 47</p> <p>1 Operations was on the animal welfare committee, 2 correct?</p> <p>3 A. That's correct.</p> <p>4 Q. And Cal-Maine's President was on the 5 Board of the UEP, correct?</p> <p>6 MR. ROBISON:</p> <p>7 Objection. Vague. Outside the scope 8 of the notice.</p> <p>9 A. Yes.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. And Cal-Maine considered it a leader 12 in the industry, correct?</p> <p>13 MR. ROBISON:</p> <p>14 Objection. Vague. Outside the 15 notice.</p> <p>16 A. Do we consider ourselves to be 17 leaders of the industry?</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. Yes.</p> <p>20 A. Well, we try to be good leaders of 21 the industry.</p> <p>22 Q. And Cal-Maine supported the United 23 Egg Producers, correct?</p> <p>24 MR. ROBISON:</p> <p>25 Objection. Way, way too vague.</p>	<p>Page 49</p>

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<p style="text-align: right;">Page 50</p> <p>1 Outside the scope. Not notified on this topic.</p> <p>2 A. Cal-Maine was a member of UEP, and if</p> <p>3 we weren't supporters, we would not be members.</p> <p>4 MR. BIRKHAEUSER:</p> <p>5 Why don't we take a break for about</p> <p>6 five minutes.</p> <p>7 VIDEOGRAPHER:</p> <p>8 We are now going off the record. The</p> <p>9 time is 10:16 a.m.</p> <p>10 (A recess was taken.)</p> <p>11 VIDEOGRAPHER:</p> <p>12 This begins tape number two in the</p> <p>13 video deposition of Steve Storm. We are now</p> <p>14 going back on the record. The time is</p> <p>15 10:29 a.m.</p> <p>16 MR. BIRKHAEUSER:</p> <p>17 For the record, the witness is</p> <p>18 reviewing Exhibit 99, which is UE0153419 through</p> <p>19 422.</p> <p>20 (Exhibit 99 marked.)</p> <p>21 Q. Have you had a chance to review</p> <p>22 Exhibit 99, sir?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Is Exhibit 99 a true copy of the</p> <p>25 minutes of a meeting of the producer committee</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Yes.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. During your participation in the</p> <p>4 animal welfare committee, did you refer to this</p> <p>5 motion as the 100 percent rule?</p> <p>6 A. Possibly. If someone said that, this</p> <p>7 is what they're referring to.</p> <p>8 Q. Okay. The requirement that all</p> <p>9 company facilities must comply with the animal</p> <p>10 welfare guidelines, correct?</p> <p>11 A. Yes. And I think it's even broader</p> <p>12 than that. Everything under which -- over which</p> <p>13 you have control, that this -- this program is</p> <p>14 an animal welfare program, and there's no reason</p> <p>15 to treat some chickens one way and other</p> <p>16 chickens another way.</p> <p>17 Q. When you say it's broader than that,</p> <p>18 it also includes affiliates, correct?</p> <p>19 A. Affiliates, anything in which you --</p> <p>20 I mean, there's a lot of legal ways to own</p> <p>21 chickens and structure businesses, but if --</p> <p>22 whatever your scope of control is, it's to</p> <p>23 include everything.</p> <p>24 Q. And the 100 percent rule was raised</p> <p>25 at the meeting March 26, 2002, and it passed at</p>
<p style="text-align: right;">Page 51</p> <p>1 for animal welfare that was held on March 26,</p> <p>2 2002?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Did you attend that meeting in</p> <p>5 person?</p> <p>6 A. Yes, sir.</p> <p>7 Q. I'd like to focus your attention</p> <p>8 first on the motion that is reflected on page 1.</p> <p>9 At the meeting on March 26, 2002, did the animal</p> <p>10 welfare committee approve a motion that required</p> <p>11 a 100 percent commitment on all company</p> <p>12 facilities, no matter how the eggs might be</p> <p>13 marketed?</p> <p>14 MR. ROBISON:</p> <p>15 Object to form.</p> <p>16 A. Is that a question?</p> <p>17 MR. BIRKHAEUSER:</p> <p>18 Q. Yes. I'll read it back for you if</p> <p>19 you like. At the meeting on March 26, 2002, did</p> <p>20 the animal welfare committee approve a motion</p> <p>21 that required 100 percent commitment on all</p> <p>22 company facilities, no matter how the eggs might</p> <p>23 be marketed?</p> <p>24 MR. ROBISON:</p> <p>25 Same.</p>	<p style="text-align: right;">Page 53</p> <p>1 the same meeting; is that correct?</p> <p>2 A. Yes. It passed by the committee.</p> <p>3 Q. By the committee.</p> <p>4 Committee also discussed audit and</p> <p>5 audit procedures at that meeting, correct?</p> <p>6 A. Yes. There are a series of motions</p> <p>7 that relate to the establishing of an audit</p> <p>8 worksheet.</p> <p>9 Q. And some of the requirements of that</p> <p>10 audit, correct?</p> <p>11 A. Yes, I think so, but mostly the</p> <p>12 identifying areas and scoring them is an audit</p> <p>13 point.</p> <p>14 Q. In terms of scoring, the committee</p> <p>15 was recommending a total scoring point system</p> <p>16 consisting of 200 points, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And in order to pass an audit, a</p> <p>19 company would have to obtain a grade of</p> <p>20 85 percent, correct?</p> <p>21 MR. ROBISON:</p> <p>22 Object to form. Vague on time.</p> <p>23 A. There's a motion to that effect.</p> <p>24 MR. BIRKHAEUSER:</p> <p>25 Q. And did the motion carry?</p>

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<p style="text-align: right;">Page 54</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And for the purposes of my 3 question on this document, I'm only talking 4 about what the animal welfare committee was 5 considering and what it was recommending, not 6 what was ultimately decided by the Board, okay?</p> <p>7 A. Okay.</p> <p>8 Q. So under the scoring system of 9 200 points, a company would need 170 points to 10 pass; is that correct?</p> <p>11 MR. ROBISON:</p> <p>12 Object to form.</p> <p>13 A. Yes. 85 percent of 200 is 170.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. 170. And the committee approved a 16 motion that would assign 110 points to housing 17 and space allowance; is that correct?</p> <p>18 A. Housing and space allowance was a 19 section of the audit that had several entries, 20 and, yes, it would have -- it was assigned 110 21 points.</p> <p>22 Q. And the committee passed a motion 23 that would recommend that 30 points be assigned 24 to beak trimming, molting, and then handling and 25 transportation each; is that correct?</p>	<p style="text-align: right;">Page 56</p> <p>1 audit; is that correct?</p> <p>2 A. If you're doing the math, they could 3 lose a total of 30 points, and if it all came 4 from beak trimming, that's a possibility.</p> <p>5 Q. They could lose every point under 6 beak trimming and still pass the audit; is that 7 correct?</p> <p>8 A. If they got every point in all the 9 other portions.</p> <p>10 Q. And a company could fail every 11 requirement under molting but still pass the 12 audit under the system that the committee was 13 proposing; is that correct?</p> <p>14 A. That's correct.</p> <p>15 Q. And then a company could fail every 16 requirement under handling and transportation, 17 and they would still pass the audit; is that 18 correct?</p> <p>19 MR. ROBISON:</p> <p>20 Object to form.</p> <p>21 A. That's correct. And, in fact, 22 initially it was easier than that. The last 23 motion on the page was for the initial time 24 period only a 70 percent passing grade was 25 required.</p>
<p style="text-align: right;">Page 55</p> <p>1 MR. ROBISON:</p> <p>2 Object to form. Mischaracterizes.</p> <p>3 A. Yes, that's correct.</p> <p>4 MR. BIRKHAEUSER:</p> <p>5 Q. And then the committee recommended -- 6 I'm sorry, the committee approved a breakdown of 7 5 points per item under the beak trimming 8 category; is that correct?</p> <p>9 MR. ROBISON:</p> <p>10 Object to form.</p> <p>11 A. That's correct.</p> <p>12 MR. BIRKHAEUSER:</p> <p>13 Q. And 5 points per line item under 14 molting; is that correct?</p> <p>15 MR. ROBISON:</p> <p>16 Object to form.</p> <p>17 A. Yes.</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. And then three points per line item 20 under handling and transportation; is that 21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. So under the point system that the 24 committee was recommending, a company could fail 25 the beak trimming requirement but still pass the</p>	<p style="text-align: right;">Page 57</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. Thank you.</p> <p>3 A. And it was a lot of question as to 4 how the outside auditors were going to interpret 5 these issues and so forth.</p> <p>6 Q. But if a company failed every 7 requirement under housing and space allowance, 8 it would fail the audit, correct?</p> <p>9 A. That's correct.</p> <p>10 MR. ROBISON:</p> <p>11 Object to form.</p> <p>12 MR. BIRKHAEUSER:</p> <p>13 For the record, the witness is 14 reviewing Exhibit 100, which is UE0153388. 15 (Exhibit 100 marked.)</p> <p>16 Q. Have you completed your review of 17 Exhibit 100?</p> <p>18 A. Yes, sir, I have.</p> <p>19 Q. Is Exhibit 100 a true copy of minutes 20 of a UEP animal welfare committee that was held 21 on October 9, 2002?</p> <p>22 A. Yes.</p> <p>23 Q. Did you attend the meeting 24 personally?</p> <p>25 A. I did.</p>

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<p style="text-align: right;">Page 58</p> <p>1 Q. You traveled to Savannah, Georgia?</p> <p>2 A. Yes, I did.</p> <p>3 Q. On page 2 of the minutes, the</p> <p>4 committee again addressed the 100 percent rule,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. And Mr. Krouse was asked -- excuse</p> <p>8 me. Mr. Krouse reported that previous motions</p> <p>9 required that the Board reconfirm the commitment</p> <p>10 of 100 percent of the production facilities; is</p> <p>11 that correct?</p> <p>12 MR. ROBISON:</p> <p>13 Object to form.</p> <p>14 A. I'm not sure of the reason for it,</p> <p>15 but it was brought up for a vote again.</p> <p>16 MR. BIRKHAEUSER:</p> <p>17 Q. And by the Board, what's being</p> <p>18 referred to in these minutes is the Board of</p> <p>19 Directors of the UEP, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And then at the meeting on October 9,</p> <p>22 2002, the animal welfare committee reconfirmed</p> <p>23 the status that a company must commit to</p> <p>24 implementing the welfare guidelines on</p> <p>25 100 percent of all production facilities,</p>	<p style="text-align: right;">Page 60</p> <p>1 the space requirements?</p> <p>2 A. I do.</p> <p>3 Q. Did you believe that those letters</p> <p>4 were, in fact, sent?</p> <p>5 A. Absolutely. Even received one or</p> <p>6 two.</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 For the record, we're marking</p> <p>9 Exhibit 101, which is a document with the Bates</p> <p>10 stamp of UE0329124 through 126.</p> <p>11 (Exhibit 101 marked.)</p> <p>12 Q. Have you completed your review of</p> <p>13 Exhibit 101?</p> <p>14 A. Yes, sir, I have.</p> <p>15 Q. And is Exhibit 101 a true copy of the</p> <p>16 minutes of an animal welfare committee meeting</p> <p>17 dated January 21, 2003?</p> <p>18 MR. ROBISON:</p> <p>19 Object to form.</p> <p>20 A. Yes, it is.</p> <p>21 MR. BIRKHAEUSER:</p> <p>22 Q. Did you attend the meeting reflected</p> <p>23 in Exhibit 101?</p> <p>24 A. Yes, I did.</p> <p>25 Q. On the first page of Exhibit 101, the</p>
<p style="text-align: right;">Page 59</p> <p>1 regardless of how or where the eggs may be</p> <p>2 marketed; is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. And that the 100 percent commitment</p> <p>5 is intended to be inclusive of all company</p> <p>6 entities and affiliates; is that correct?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And that motion carried; is that</p> <p>9 correct?</p> <p>10 A. 10 to 2.</p> <p>11 Q. Can you turn to the last page of</p> <p>12 Exhibit 100, on the subject of monthly</p> <p>13 compliance reports? Do you recall -- who is</p> <p>14 Rikard who's been referred to in the monthly</p> <p>15 compliance reports?</p> <p>16 A. It's Linda Rikard. She's either an</p> <p>17 employee or Vice President of -- still an</p> <p>18 employee of UEP. Her office is in Iowa.</p> <p>19 Q. Do you recall Linda Rikard reporting</p> <p>20 on the number of companies that had filed their</p> <p>21 August compliance reports?</p> <p>22 A. Seems like, yes.</p> <p>23 Q. Do you recall her stating that</p> <p>24 letters had been sent to companies that were</p> <p>25 even one bird over the allowable limit to meet</p>	<p style="text-align: right;">Page 61</p> <p>1 committee discussed audit procedures, correct?</p> <p>2 A. Yes.</p> <p>3 Q. There are two acronyms that are used</p> <p>4 in that discussion. The first is USDA, and the</p> <p>5 second is ARPAS. What's ARPAS?</p> <p>6 A. A division of USDA.</p> <p>7 Q. And USDA is the United States</p> <p>8 Department of Agriculture?</p> <p>9 A. It is.</p> <p>10 Q. And did you, in fact, have meetings</p> <p>11 with the USDA regarding audit procedures?</p> <p>12 A. Yes.</p> <p>13 Q. And the committee wanted the USDA to</p> <p>14 become an auditor of the animal welfare</p> <p>15 requirements, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And the committee --</p> <p>18 A. I'm sorry.</p> <p>19 Q. I didn't mean to stop your answer. I</p> <p>20 thought you had completed it.</p> <p>21 A. Yes. We wanted USDA to be a part of</p> <p>22 it. We thought they were a reputable outside</p> <p>23 party and could relate to our industry and our</p> <p>24 business and understand what they see.</p> <p>25 And as -- not only that, but we</p>

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<p>1 relied upon USDA to take the manual under which  2 we were -- contained all of the producer  3 guidelines, and they wrote the criteria for  4 auditors on, here's what the manual says, and  5 here's what it means to you as an auditor when  6 you're on site.</p> <p>7 They interpreted that and provided a  8 training document to train auditors.</p> <p>9 Q. And having the USDA audit the animal  10 welfare requirements would lend credibility to  11 the program; is that correct?</p> <p>12 A. Well, generally an outside third  13 party, reputable third party was needed to lend  14 credibility, and they were a good one.</p> <p>15 Q. And you reported to the committee  16 about a mock audit that was conducted at the  17 Cal-Maine Edwards farm; is that correct?</p> <p>18 A. Yes, it is correct.</p> <p>19 Q. And where is the Cal-Maine Edwards  20 farm?</p> <p>21 A. It's in Mississippi, about 30 miles  22 south and west of Jackson.</p> <p>23 Q. And during this meeting, Cal-Maine  24 assisted in auditor training; is that correct?</p> <p>25 A. To some extent. Would you like for</p>	Page 62	<p>1 Q. And the challenge related to  2 marketing arrangements with Michael Foods and  3 Sunny Fresh Foods, correct?</p> <p>4 MR. ROBISON:</p> <p>5 Object to form. Mischaracterizes.</p> <p>6 A. I believe so.</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 Q. He asked the committee to give  9 consideration to compromises that would allow  10 the group to phase in the program as their  11 market needs occurred; is that correct?</p> <p>12 MR. ROBISON:</p> <p>13 Object to form. Asked and answered.</p> <p>14 A. Yes. That's the report here.</p> <p>15 MR. BIRKHAEUSER:</p> <p>16 Q. Okay.</p> <p>17 A. They were asking permission to not  18 treat all of their chickens the same and still  19 be on the program.</p> <p>20 Q. Did Cal-Maine ever conduct a study in  21 any way relating to co-mingling of eggs?</p> <p>22 MR. ROBISON:</p> <p>23 Object to form. Outside the notice.</p> <p>24 A. I don't think so.</p> <p>25 MR. BIRKHAEUSER:</p>	Page 64
<p>1 me to tell you about the meeting?</p> <p>2 Q. Let me just ask a very specific  3 question. Did Cal-Maine help train the auditors  4 by using its facilities at the Edwards farm?</p> <p>5 A. We enhanced their ability to train,  6 and we certainly did not hinder it.</p> <p>7 Q. If you could turn to page 2 of the  8 exhibit. At the bottom -- I'm sorry. And I'm  9 referring specifically to the paragraph that  10 begins: "Challenge to 100 percent policy and  11 co-mingling."</p> <p>12 So at this meeting there was a  13 challenge to the 100 percent rule; is that  14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And the challenge related to certain  17 individuals desiring to phase in their program  18 as their market needs occurred; is that correct?</p> <p>19 MR. ROBISON:</p> <p>20 Object to form.</p> <p>21 A. Not exactly.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. The challenge was brought by  24 Mr. Garth Sparboe, correct?</p> <p>25 A. Yes.</p>	Page 63	<p>1 Q. And at the bottom of page 9126,  2 there's a discussion of backfilling; is that  3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And, again, backfilling is the  6 practice of replacing hens that have died; is  7 that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And after discussing the requirement  10 in January of 2003, there was no recommendation  11 for any change of the backfill policy; is that  12 correct?</p> <p>13 A. No. I think that was just a point of  14 interest. That was discussed in a meeting, just  15 brought out to the membership.</p> <p>16 Q. And at this point in time,  17 backfilling was permitted.</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 A. I might say it was permitted by the  21 animal welfare committee and their program for  22 the membership. It was not recommended by the  23 scientific committee.</p> <p>24 Q. Thank you. So the animal welfare  25 committee did not endorse -- did not adopt the</p>	Page 65

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<p>1 scientific committee's recommendations about 2 backfilling as of January 2003, correct? 3 A. No. I think they -- I don't know if 4 they specified that, but, as it became aware of 5 what was going on, they were against it for the 6 basic reasons of animal welfare. 7 So they're aware of this, being parts 8 of meetings, but they were -- they saw it going 9 on, but that was not their recommendation. 10 MR. BIRKHAEUSER: 11 We will mark this Exhibit 102. 12 (Exhibit 102 marked.) 13 MR. BIRKHAEUSER: 14 For the record, we're marking as 15 Exhibit 102 a document bearing the Bates number 16 CM00415763 through 65. 17 Q. Have you completed your review of 18 Exhibit 102? 19 A. Yes. 20 Q. Does Exhibit 102 -- is Exhibit 102 a 21 true copy of the minutes of a UEP producer 22 committee for animal welfare conference call 23 that was held on February 26, 2003? 24 A. Yes. 25 Q. During this meeting there was further</p>	<p>Page 66</p> <p>1 And initially through this, Krouse's 2 position was that he favored not being 100 3 percent, so he proposed that -- he was part of 4 the group that wanted to review it. 5 MR. BIRKHAEUSER: 6 Q. And after the parties desiring a 7 change to the 100 percent rule presented their 8 views, the committee did not take a vote to 9 change the 100 percent rule; is that correct? 10 A. There was no action on this call. 11 Q. However, the comments generally 12 favored no change to UEP's current policy by a 13 count of nine to four; is that correct? 14 A. That's the statement. I presume it's 15 correct. There was no motion to be considered. 16 Q. And you believe that the minutes 17 accurately reflect the discussions that were 18 held during this -- 19 A. I do. 20 Q. -- February 26, 2003, conference 21 call, correct? 22 A. I do. 23 (Exhibit 103 marked.) 24 MR. BIRKHAEUSER: 25 For the record, the witness is</p>
<p>1 discussion of the 100 percent rule, correct? 2 A. The purpose of the call was to 3 further discuss the 100 percent rule. 4 Q. And, again, there was a discussion of 5 creating exemptions from the 100 percent rule, 6 correct? 7 MR. ROBISON: 8 Object to form. 9 A. There was a proposal for that. 10 MR. BIRKHAEUSER: 11 Q. And the proposal was being presented 12 by Mr. Krouse, correct? 13 MR. ROBISON: 14 Object to form. 15 A. Well, the -- during that time there 16 was discussion about being able to apply less 17 than the 100 percent rule for the breakers, the 18 breaking industry. And Krouse was saying, look, 19 if we're going to do it for the breakers, I want 20 to do it, too. 21 And there were some producers wanted 22 the ability not to be 100 percent, some wanted 23 to be on it. They're a very independent group. 24 They had their personal reasons for which they 25 desired.</p>	<p>Page 67</p> <p>1 reviewing Exhibit 103, which is document bearing 2 the Bates numbers CM00225709 through 712. 3 A. I'm through with my review. 4 Q. Thank you. Does Exhibit 103 -- is 5 Exhibit 103 a true copy of the minutes of the 6 UEP producer committee for animal welfare held 7 on May 12, 2003? 8 A. Yes, I think so. 9 Q. And did you attend this meeting 10 personally? 11 A. Yes, I did. 12 Q. I'd like to focus your attention to 13 the first page, the scientific committee 14 recommendations. It notes that Paul -- do 15 pronounce it Bahan? 16 A. Bahan. 17 Q. -- Bahan, B-a-h-a-n, and Mr. Gregory 18 reported having met with the scientific advisory 19 committee on March 1. 20 Mr. Bahan was the Chairman of the 21 animal welfare committee at this time? 22 A. Yes. 23 Q. And Mr. Gregory, does that refer to 24 Gene Gregory? 25 A. It does.</p>

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<p style="text-align: right;">Page 70</p> <p>1 Q. And Mr. Bahan and Mr. Gregory are 2 reporting recommendations from the scientific 3 committee; is that correct? 4 A. Yes. 5 Q. Under the first numbered item, the 6 scientific committee is recommending that the 7 ammonia to which birds are exposed should not 8 exceed 25 parts per million; is that correct? 9 MR. ROBISON: 10 Object to form. 11 A. That's the first item, yes. 12 MR. BIRKHAEUSER: 13 Q. Is that your recollection -- 14 A. Yes. 15 Q. -- from attending the meeting? 16 And at the current time, the animal 17 welfare committee had approved requirements that 18 were in excess of 25 parts per million, correct? 19 MR. ROBISON: 20 Object to form. 21 A. Yes. Twice the size, 50. 22 MR. BIRKHAEUSER: 23 Q. Okay. 24 A. Could I say something further about 25 this?</p>	<p style="text-align: right;">Page 72</p> <p>1 I know you do. 2 MR. BIRKHAEUSER: 3 Q. On page 2, there's a motion -- 4 MR. ROBISON: 5 You guys don't want the truth, you 6 don't want a full answer to the question? 7 MR. BIRKHAEUSER: 8 I would like an answer to the 9 questions that I ask. If you want to ask other 10 questions -- I asked him whether -- 11 MR. ROBISON: 12 I know you asked a question. What 13 he's saying is his answer was not complete, and 14 now you're cutting him off and going on to 15 something else. 16 MR. AHERN: 17 He stopped his answer. He was done. 18 MR. BIRKHAEUSER: 19 You have the opportunity to ask 20 questions. 21 MR. ROBISON: 22 If you need to finish your answer, 23 finish it. 24 A. Well, the answer I gave was not quite 25 complete.</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. I'm going to ask you another question 2 in one second. 3 A. I take that as a no. 4 MR. ROBISON: 5 If you need to explain something, go 6 ahead. 7 A. I would like to explain it further. 8 MR. ROBISON: 9 Yeah. 10 MR. BIRKHAEUSER: 11 Q. You'll have the opportunity -- 12 MR. ROBISON: 13 No, no, no, no. You've cut him off 14 before. We don't need to cut a witness off if 15 he was trying to explain an answer. 16 MR. AHERN: 17 No. He finished his answer. You'll 18 have the opportunity to ask him questions later. 19 MR. ROBISON: 20 No. Go ahead and finish your answer. 21 MR. BIRKHAEUSER: 22 Q. I have another question. 23 MR. AHERN: 24 I think that's improper, Mr. Robison. 25 MR. ROBISON:</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. ROBISON: 2 Okay. Then finish it. 3 A. The relationship between -- as the 4 program went on beyond the initial point in 2000 5 and to this point, the relationship of the 6 committee and -- of the scientific committee and 7 the welfare committee was that the scientific 8 committee had their recommendations, and we had 9 our program together, and they weren't the same. 10 That was okay with the scientific 11 committee as long as we always moved towards 12 their recommendations. At any point in time 13 that they had reason to have concern, they 14 brought it up. 15 This is an example. They were not 16 satisfied with the 50 parts per million, and 17 they were pressuring the committee to consider 18 further restrictions on this item. 19 Likewise, any time that other science 20 was available to -- for interpretation on any of 21 these areas, they were open to consideration on 22 that. 23 That was all I wanted to add to it. 24 MR. AHERN: 25 Are you done with your answer</p>

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<p>1 fully --</p> <p>2 A. Yes.</p> <p>3 MR. AHERN:</p> <p>4 -- now at this time?</p> <p>5 Objection. Improper coaching by his</p> <p>6 counsel. Move to strike as non-responsive.</p> <p>7 MR. ROBISON:</p> <p>8 This is not coaching, Patrick.</p> <p>9 MR. AHERN:</p> <p>10 You told him it was incomplete, and</p> <p>11 he said, my answer was incomplete.</p> <p>12 MR. ROBISON:</p> <p>13 I didn't say it was incomplete. He</p> <p>14 said it was incomplete. You guys wouldn't let</p> <p>15 him finish it. I didn't tell him what to say.</p> <p>16 MR. BIRKHAEUSER:</p> <p>17 Q. On page 2 at the top, there's a</p> <p>18 motion; is that correct?</p> <p>19 A. Which page would you regard as</p> <p>20 page 2?</p> <p>21 Q. The page ending in Bates number 5711.</p> <p>22 Thank you, because there is a cover page.</p> <p>23 A. There is a motion. That's correct.</p> <p>24 Q. And the animal welfare committee</p> <p>25 decided to table the scientific committee</p>	<p>Page 74</p> <p>1 For the record, we're marking</p> <p>2 Exhibit 104, which is UE0329116. It's a single</p> <p>3 page.</p> <p>4 Q. Have you completed your --</p> <p>5 A. Yes, I have reviewed it.</p> <p>6 Q. Does Exhibit 104 -- is Exhibit 104 a</p> <p>7 true copy of the minutes of a meeting of the UEP</p> <p>8 producer committee for animal welfare held by</p> <p>9 conference call on May 30, 2003?</p> <p>10 A. Yes, I believe so.</p> <p>11 Q. And did you participate in that call?</p> <p>12 A. Yes, I did.</p> <p>13 Q. I have just one question. It's on</p> <p>14 the third paragraph. Do you recall Mr. Gregory</p> <p>15 recommending approval of the FMI-NCCR audit?</p> <p>16 A. I recall FMI being the driver behind</p> <p>17 all of this, and they were insisting upon the</p> <p>18 ability to appoint the third party audits and</p> <p>19 being involved in that.</p> <p>20 Q. FMI is the Food Marketing Institute?</p> <p>21 A. Food Marketing Institute.</p> <p>22 Q. Do you recall Mr. Gregory</p> <p>23 recommending approval of the FMI audit being</p> <p>24 added to the list of approved auditors?</p> <p>25 A. Yes.</p>
<p>1 recommendations until further research is</p> <p>2 conducted; is that correct?</p> <p>3 A. The report is that it carried.</p> <p>4 Q. So the -- as a result of the May 12,</p> <p>5 2003, meeting, the animal welfare committee was</p> <p>6 not going to adopt the scientific committee's</p> <p>7 recommendations to lower hens' exposure to</p> <p>8 ammonia to the levels recommended by the</p> <p>9 scientific committee; is that correct?</p> <p>10 MR. ROBISON:</p> <p>11 Object to form.</p> <p>12 A. No. That's not what it says. It</p> <p>13 says they were going to table the</p> <p>14 recommendations.</p> <p>15 MR. BIRKHAEUSER:</p> <p>16 Q. It was unwilling, as of May 12, 2003,</p> <p>17 to adopt the scientific committee's</p> <p>18 recommendations with respect to ammonia</p> <p>19 concentration, correct?</p> <p>20 MR. ROBISON:</p> <p>21 Object to form.</p> <p>22 A. Yes. On that day, they were not</p> <p>23 going to accept them.</p> <p>24 (Exhibit 104 marked.)</p> <p>25 MR. BIRKHAEUSER:</p>	<p>Page 75</p> <p>1 Q. Do you recall him recommending it</p> <p>2 because it was our only way to be involved and</p> <p>3 protect the interest of our members?</p> <p>4 MR. ROBISON:</p> <p>5 Object to form.</p> <p>6 A. No, I don't really recall the reason.</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 Q. Do you recall Mr. Gregory expressing</p> <p>9 the belief that since it was the intent of FMI</p> <p>10 to continue in the audit process with or without</p> <p>11 our support, he felt it would be wise to be</p> <p>12 involved?</p> <p>13 A. I don't actually recall that, but it</p> <p>14 makes good sense.</p> <p>15 Q. And you believe that the Exhibit 104</p> <p>16 accurately reflects the discussion of the</p> <p>17 conference call that was held on May 30?</p> <p>18 A. Yes. I think so.</p> <p>19 (Exhibit 105 marked.)</p> <p>20 MR. BIRKHAEUSER:</p> <p>21 For the record, the witness is</p> <p>22 reviewing Exhibit 105, which is UE0153327</p> <p>23 through 29.</p> <p>24 A. I've reviewed the document.</p> <p>25 Q. At the bottom of the page ending in</p>

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<p style="text-align: right;">Page 78</p> <p>1 328, there's further discussion of the ammonia 2 standards, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And the scientific committee is 5 continuing to urge the UEP to limit the amount 6 of ammonia permitted to 25 parts per million; is 7 that correct?</p> <p>8 MR. ROBISON: 9 Object to the form.</p> <p>10 A. I don't know that they're continuing. 11 They have made their point, and we're still 12 responding to it.</p> <p>13 MR. BIRKHAEUSER: 14 Q. And the response by the committee, as 15 reflected in the October 27, 2003, minutes --</p> <p>16 MR. ROBISON: 17 Object to form.</p> <p>18 A. Pardon me?</p> <p>19 MR. BIRKHAEUSER: 20 Q. -- is to --</p> <p>21 A. What minutes?</p> <p>22 Q. I haven't completed my question yet. 23 -- is to recommend that the Board 24 acknowledges being in support of working toward 25 a 25-part-per-million ammonia standard; is that</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Yes. 2 Q. And at that time the audits tested 3 for 50 parts per million, correct? 4 A. Yes. 5 MR. BIRKHAEUSER: 6 Let me take a quick break. 7 VIDEOGRAPHER: 8 We are now going off the record. The 9 time is 11:23 a.m. 10 (A recess was taken.) 11 VIDEOGRAPHER: 12 We are now going back on the record. 13 The time is 11:31 a.m. 14 MR. BIRKHAEUSER: 15 And for the record, we're marking 16 Exhibit 106, which is CM00225601 through 02. 17 (Exhibit 106 marked.) 18 Q. Have you completed your review of 19 Exhibit 106? 20 A. I have. 21 Q. Does Exhibit 106 constitute the 22 minutes of the producer committee for animal 23 welfare that was held on March 3, 2004? 24 A. Yes. 25 Q. Do you believe it accurately reflects</p>
<p style="text-align: right;">Page 79</p> <p>1 correct?</p> <p>2 MR. ROBISON: 3 Object to form.</p> <p>4 A. In this document you're referring to, 5 the 22nd, the committee agreed to be working 6 towards that. We wanted to get there, but the 7 problems were the ability to accurately and 8 truly measure ammonia levels in all the 9 different housing types.</p> <p>10 The ability to do that was not easily 11 attainable, and we began to work on different 12 meters and ways to measure the ammonia, and 13 whether the standards means any one time or an 14 average over a 24-hour period and -- there were 15 a lot of things being considered, how to assess 16 that.</p> <p>17 MR. BIRKHAEUSER: 18 Q. Is that reflected in the minutes 19 contained in Exhibit 105?</p> <p>20 A. No. That's what they meant by 21 working towards it. That's what we discussed at 22 the time.</p> <p>23 Q. Guidelines at that time permitted 24 50 parts per million of ammonia concentration, 25 correct?</p>	<p style="text-align: right;">Page 81</p> <p>1 the meeting that was held on March 3, 2004?</p> <p>2 A. Yes.</p> <p>3 Q. Did Mr. Armstrong attend that meeting 4 in person?</p> <p>5 A. I thought that he did. It shows that 6 he was present.</p> <p>7 Q. And did you attend in person?</p> <p>8 A. I did.</p> <p>9 Q. And, again, Mr. Armstrong is the 10 chairman of the scientific advisory committee, 11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And Mr. Armstrong has appeared at the 14 animal welfare committee to express the 15 scientific committee's views regarding certain 16 of the scientific committee's recommendations, 17 correct?</p> <p>18 A. Yes. The -- it shows that the 19 scientific committee had concern about some of 20 the cage equipment still being offered on the 21 market that would not support the 22 recommendations, and he was bringing that forth, 23 that those could still be bought, and that in 24 order to maintain the full support of the 25 scientific committee, we should always, as an</p>

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<p style="text-align: right;">Page 82</p> <p>1 industry, be moving towards their standards and 2 never away from them.</p> <p>3 Q. Thank you. If you look at the second 4 full paragraph, the one that begins with 5 Mr. Armstrong's name?</p> <p>6 A. Yes.</p> <p>7 Q. And the second full sentence in that 8 paragraph.</p> <p>9 A. Yes.</p> <p>10 Q. Mr. Armstrong is expressing his views 11 that UEP could lose the committee's support if 12 they regressed from current standards when 13 installing new equipment; is that correct?</p> <p>14 A. Right. I just said that.</p> <p>15 Q. Okay. I thought that your previous 16 answer concerned old equipment. Mr. Armstrong 17 is concerned about manure dropping on lower 18 cages, correct?</p> <p>19 MR. ROBISON:</p> <p>20 Object to form.</p> <p>21 A. That's one of his concerns.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. And another one of his concerns is 24 feeder space, correct?</p> <p>25 A. That's one of his concerns.</p>	<p style="text-align: right;">Page 84</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. But most were only off by about an 3 inch --</p> <p>4 A. No more.</p> <p>5 Q. -- is that correct?</p> <p>6 A. No more.</p> <p>7 Q. And Mr. Armstrong's also presenting 8 the scientific committee's views that manure 9 shouldn't drop from cages that are stacked upon 10 each other; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. So manure shouldn't be dropping from 13 the upper cages into the lower cages.</p> <p>14 A. Correct.</p> <p>15 Q. And there was a motion that was made 16 to reflect the scientific committee's views; is 17 that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And ultimately that motion was 20 withheld, correct?</p> <p>21 A. Yes, it was.</p> <p>22 Q. And no action was taken on it at the 23 March 3, 2004, meeting.</p> <p>24 A. No. It was placed on the agenda for 25 May, it says, on the next scheduled meeting.</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. And there's discussion during this 2 animal welfare committee meeting of providing 3 10 centimeters of feeder space per hen, correct?</p> <p>4 MR. ROBISON:</p> <p>5 Object to form. Incomplete.</p> <p>6 A. Yes. There's -- and I think there's 7 some ongoing research at this point in time as 8 well.</p> <p>9 MR. BIRKHAEUSER:</p> <p>10 Q. I think we'll see the research coming 11 in subsequent meetings.</p> <p>12 A. Okay.</p> <p>13 Q. And these scientists always talk in 14 metric. 10 centimeters is approximately how 15 many inches; do you know?</p> <p>16 A. Oh, I guess it would be about four 17 inches, a little bit less.</p> <p>18 Q. And currently those cages provided 19 about three inches of feeder space, correct?</p> <p>20 MR. ROBISON:</p> <p>21 Object to form. Vague.</p> <p>22 A. Most cages did not provide four 23 inches per bird, but that's changing as the hen 24 count changed through the progress of the 25 program.</p>	<p style="text-align: right;">Page 85</p> <p>1 (Exhibit 107 marked.)</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 For the record, we've marked 4 Exhibit 107, which is UE0153279 through 80.</p> <p>5 Q. Have you completed your review?</p> <p>6 A. I have.</p> <p>7 Q. I've got just a couple questions. 8 They're both on the second page.</p> <p>9 Did Dr. Armstrong personally 10 attend -- well, first of all -- strike that 11 question.</p> <p>12 Does Exhibit 107 constitute the 13 minutes of the meeting of the producer committee 14 for animal welfare that was held on May 10, 15 2004?</p> <p>16 A. Yes.</p> <p>17 Q. Did Mr. Armstrong personally attend 18 the animal welfare committee meeting?</p> <p>19 A. Yes, it's noted Dr. Jeff Armstrong is 20 present.</p> <p>21 Q. And, again, he was pleading the case 22 of the scientific committee --</p> <p>23 A. Absolutely.</p> <p>24 Q. -- with respect to feeder space and 25 the manure issue --</p>

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<p>1 MR. ROBISON: 2 Object to form. 3 MR. BIRKHAEUSER: 4 Q. -- correct? 5 MR. ROBISON: 6 Same. 7 A. Yes. I think so. 8 MR. BIRKHAEUSER: 9 Q. And Mr. Armstrong was asking for four 10 inches of feeder space per bird, per hen; is 11 that correct? 12 A. The scientific committee's 13 recommendation is four inches per bird or 14 greater. Four to six. I think they expressed 15 four to six in their documents. 16 Q. A minimum of four inches -- 17 A. Yes. 18 Q. -- of feeder space per bird. And the 19 animal welfare committee approved a 20 recommendation to the Board that research take 21 place on feeder space, correct? 22 A. Correct. 23 Q. And further recommended to the Board 24 that three inches of feeder space per hen be 25 required on new equipment and for all hens</p>	Page 86	<p>1 Q. And at this meeting, again, the issue 2 of feeder space was discussed, correct? 3 A. Yes. 4 Q. And the animal welfare committee's 5 decision was to have a study about feeder space. 6 A. The recommendation was we needed more 7 science to represent the modern facilities and 8 the modern genetics. 9 Q. You needed more research to decide 10 whether to increase the feeder space by 11 approximately an inch; is that correct? 12 A. Yes. The equipment companies were 13 beginning to come out with equipment for less 14 than three inches. In order to help meet some 15 of the other requirements such as cage space, 16 they had to reconfigure the cage in such a way 17 that it would further limit feeder space, and 18 that was a concern to the committee. 19 Q. And the Board ended up deciding to 20 table its previous recommendation of at least 21 three inches of feeder space, correct? 22 MR. ROBISON: 23 Object to form. 24 A. It refers here to a tabled motion, so 25 I'm sure that was at the Board.</p>	Page 88
<p>1 housed after April 1, 2005, correct? 2 A. We had no strict provision for the 3 amount of feeder space to be allowed, so that 4 motion provided a baseline of three inches while 5 research is going on. And three inches could be 6 accepted by the membership. 7 Q. Because, as you just testified, three 8 inches is pretty much the standard that people 9 already used. 10 MR. ROBISON: 11 Object to the form. 12 A. Right. 13 MR. BIRKHAEUSER: 14 For the record, we've marked 15 Exhibit 108, which is UE0153266 through 69. 16 (Exhibit 108 marked.) 17 Q. Again, I'm principally interested in 18 the discussion on page 2, complete the feeder 19 space research. 20 A. Okay. I'm ready. 21 Q. So does Exhibit 108 constitute the 22 minutes of a meeting held on June 10 through 11, 23 2004, of the scientific advisory committee and 24 the UEP producer committee for animal welfare? 25 A. Yes.</p>	Page 87	<p>1 MR. BIRKHAEUSER: 2 Q. And that was approved. 3 MR. ROBISON: 4 Same objection. 5 A. No. 6 MR. BIRKHAEUSER: 7 Q. I'm sorry. I'm just talking about 8 the animal welfare committee, not the Board. 9 A. Right. This -- these minutes refer 10 to the three inches of feeder space that were 11 considered in the meeting before -- 12 Q. Correct. 13 A. -- and regarding that as a tabled 14 motion. That's what I think -- isn't that what 15 it says here? 16 Q. On page 267, there was a motion by 17 Krouse, correct? The very last motion that was 18 considered by the animal welfare committee on 19 June 10, 2004 -- 20 A. Yes. 21 Q. -- there was a motion by Krouse. 22 A. Correct. 23 Q. And the motion was to table the 24 motion recommending at least three linear inches 25 of feeder space off the table, and recommended</p>	Page 89

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<p style="text-align: right;">Page 90</p> <p>1 that it be defeated in consideration of today's 2 motions, correct?</p> <p>3 A. Yes. And that carried.</p> <p>4 Q. And that carried. So that was 5 approved by the producer committee for animal 6 welfare on June 10?</p> <p>7 A. So that removed the three-inch 8 minimum.</p> <p>9 Q. Okay. Thank you.</p> <p>10 (Exhibit 109 marked.)</p> <p>11 MR. BIRKHAEUSER:</p> <p>12 For the record the witness is now 13 reviewing Exhibit 109, which bears the Bates 14 stamp NL000792 through 4.</p> <p>15 Q. I'm principally interested in the 16 last page. I just want to follow the 17 progression of the feeder space issue.</p> <p>18 A. Yes.</p> <p>19 Q. Does Exhibit 109 constitute the 20 minutes of the meeting of the animal welfare 21 public relations committee held on October 20, 22 2004?</p> <p>23 A. Yes.</p> <p>24 Q. And on page 3, did Dr. Armstrong 25 actually attend that meeting held in</p>	<p style="text-align: right;">Page 92</p> <p>1 the reasons exactly, but yes.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. And there was a motion to that 4 effect, and that motion carried, correct?</p> <p>5 A. Well --</p> <p>6 MR. ROBISON:</p> <p>7 Same objection.</p> <p>8 A. -- the motion that I see here was 9 that they redesigned -- that they design a 10 companion project and epidemiological study, and 11 that was carried.</p> <p>12 MR. BIRKHAEUSER:</p> <p>13 Q. That was carried.</p> <p>14 (Exhibit 110 marked.)</p> <p>15 MR. BIRKHAEUSER:</p> <p>16 For the record, the witness is 17 reviewing Exhibit 110, which is a document 18 bearing the Bates stamp UE0153237 through 41.</p> <p>19 A. Okay.</p> <p>20 Q. Does Exhibit 110 constitute the 21 minutes of a meeting dated September 7 through 8 22 of the producer committee for animal welfare?</p> <p>23 A. I think it says December 7 and 8.</p> <p>24 Q. I apologize if I misspoke. Does it 25 constitute --</p>
<p style="text-align: right;">Page 91</p> <p>1 New Orleans?</p> <p>2 A. I believe so.</p> <p>3 Q. And did you attend?</p> <p>4 A. Yes.</p> <p>5 Q. Dr. Armstrong presented a project 6 that was proposed at Purdue University; is that 7 correct?</p> <p>8 A. Yes. One of the committee members, 9 Dr. Patricia Hester from Purdue, designed a 10 research project for feeder space, and he was 11 presenting that.</p> <p>12 Q. When you say he, do you mean 13 Mr. Armstrong was --</p> <p>14 A. He being Dr. Armstrong.</p> <p>15 Q. Thank you. So when you say he, you 16 meant Dr. Armstrong was presenting the research 17 project, correct?</p> <p>18 A. Yes. That's what I meant.</p> <p>19 Q. And ultimately the animal welfare 20 committee asked Dr. Armstrong to go back to the 21 scientific committee and redesign the study 22 about feeder space, correct?</p> <p>23 MR. ROBISON:</p> <p>24 Object to form.</p> <p>25 A. That's what it says. I don't recall</p>	<p style="text-align: right;">Page 93</p> <p>1 A. Yes.</p> <p>2 Q. -- the minutes of the meeting dated 3 December 7 through 8, 2004, of the producer 4 committee for animal welfare?</p> <p>5 A. It does.</p> <p>6 Q. And did you attend that meeting?</p> <p>7 A. Yes.</p> <p>8 Q. This meeting occurred for two days in 9 Chicago, correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And on the first page there's a 12 discussion of backfilling. Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Up until the end of December 2004, 15 backfilling had been permitted under the animal 16 welfare program, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And at this meeting the producer 19 committee for animal welfare decided to prohibit 20 backfilling; is that correct?</p> <p>21 MR. ROBISON:</p> <p>22 Object to form.</p> <p>23 A. The -- I think there was a motion 24 almost to that effect saying that -- prohibiting 25 backfilling except under extreme circumstances.</p>

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<p style="text-align: right;">Page 94</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. And the extreme circumstances are</p> <p>3 catastrophes, correct?</p> <p>4 A. Yes.</p> <p>5 Q. So if there's a natural disaster,</p> <p>6 then backfilling would be permitted.</p> <p>7 A. Even an unnatural disaster, but, yes.</p> <p>8 Q. Some extreme circumstance.</p> <p>9 Can you turn to page 2, the second</p> <p>10 motion. According to these minutes, you moved</p> <p>11 to recommend to the Board that unauthorized</p> <p>12 backfilling be treated the same as cage space</p> <p>13 allowance and therefore will result in a failed</p> <p>14 audit; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. And that motion carried?</p> <p>17 A. It says unanimously.</p> <p>18 Q. On the page ending in 239, there's a</p> <p>19 discussion of cage configuration and manure</p> <p>20 drop-through again; is that correct?</p> <p>21 A. Yes, there is.</p> <p>22 Q. Okay. And with respect to those</p> <p>23 issues, the committee decided to appoint a</p> <p>24 subcommittee, correct, to further investigate?</p> <p>25 A. The chairman decided to appoint a</p>	<p style="text-align: right;">Page 96</p> <p>1 hen to be able to stand upright throughout the</p> <p>2 entire cage, right?</p> <p>3 A. Possibly.</p> <p>4 Q. And then manure drop-through, that's</p> <p>5 the issue that we talked about before, correct?</p> <p>6 A. Some cage designs allow more of that</p> <p>7 than others. Some none. So just all of those</p> <p>8 issues.</p> <p>9 Q. And the scientific committee was</p> <p>10 concerned because it had visited farms, and it</p> <p>11 saw manure dropping from higher cages into lower</p> <p>12 cages.</p> <p>13 MR. ROBISON:</p> <p>14 Object to form.</p> <p>15 A. I don't know if they visited farms or</p> <p>16 not, but they may have.</p> <p>17 MR. BIRKHAEUSER:</p> <p>18 Q. I believe we saw that in some</p> <p>19 previous minutes.</p> <p>20 MR. ROBISON:</p> <p>21 Object to form.</p> <p>22 A. It's certainly plausible.</p> <p>23 VIDEOGRAPHER:</p> <p>24 Five minutes.</p> <p>25 MR. BIRKHAEUSER:</p>
<p style="text-align: right;">Page 95</p> <p>1 subcommittee.</p> <p>2 Q. And the Chairman had that under</p> <p>3 authority in the animal welfare --</p> <p>4 A. He had the authority.</p> <p>5 Q. The Chairman had that authority in</p> <p>6 the animal welfare committee; is that true?</p> <p>7 A. The Chairman had that authority.</p> <p>8 Q. Okay.</p> <p>9 A. And I think the subcommittee was to</p> <p>10 survey the various equipment suppliers to</p> <p>11 address what currently is being provided in</p> <p>12 terms of some of the concerns of the scientific</p> <p>13 committee.</p> <p>14 Q. And just generally those concerns</p> <p>15 were cages that would permit a hen to actually</p> <p>16 stand upright in the entire -- throughout the</p> <p>17 entire area of the cage?</p> <p>18 MR. ROBISON:</p> <p>19 Object to form.</p> <p>20 MR. BIRKHAEUSER:</p> <p>21 Q. Is that correct?</p> <p>22 A. It involved things like the</p> <p>23 dimensions, the cage height, the shape, the --</p> <p>24 various things like that. The style.</p> <p>25 Q. Slant-back cage wouldn't permit the</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. In any event, Chairman Oldenkamp has</p> <p>2 appointed a subcommittee to address those</p> <p>3 concerns; is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. And then a little bit further down</p> <p>6 there's a motion relating to audits; is that</p> <p>7 correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And the motion required that all</p> <p>10 animal care certified audits be random, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And that the auditors would provide</p> <p>13 the company no more than one week prior notice</p> <p>14 to when the audit would be conducted.</p> <p>15 MR. ROBISON:</p> <p>16 Object to form.</p> <p>17 A. That's the motion.</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. And that motion carried, correct?</p> <p>20 A. Yes.</p> <p>21 VIDEOGRAPHER:</p> <p>22 Three minutes.</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Why don't we go off the record.</p> <p>25 VIDEOGRAPHER:</p>

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<p style="text-align: right;">Page 98</p> <p>1        This the end of tape number two of 2 the deposition of Steve Storm. We are now going 3 off the record. The time is 12:02 p.m. 4        (A recess was taken.) 5 VIDEOGRAPHER: 6        This is the beginning of tape number 7 three in the video deposition of Steve Storm. 8 We are now going back on the record. The time 9 is 1:03 p.m. 10 MR. BIRKHAEUSER: 11 Q. Good afternoon, Mr. Storm. During 12 our break, I handed you Exhibit 111. And for 13 the record, that contains the Bates number 14 UE0210295 through 298. 15        (Exhibit 111 marked.) 16 Q. And my first question -- I'm sorry. 17 I'll give you a chance to review the document. 18 A. I think I'm ready. 19 Q. My first question appears on page 2, 20 which is Bates marked 295. I guess before I 21 ask, I should ask you if these two constitute 22 the minutes of a meeting of the UEP producer 23 committee for animal welfare held on January 24, 24 2005. 25 A. Yes.</p>	<p style="text-align: right;">Page 100</p> <p>1 results may be shared, and then only with a 2 letter from the audited firm which is renewed 3 annually. 4 MR. BIRKHAEUSER: 5 Q. A letter received by the UEP. 6 A. That they -- yes. 7 Q. And on page 2 -- 8 A. Which page is that, sir? 9 Q. I'm sorry. On the page that ends in 10 297, we have a motion dealing with floor space. 11 That was a motion that was first considered 12 about a year before. 13 A. Yes. 14 Q. And the committee was recommending 15 through this motion that cage systems purchased 16 for new construction by June 1, 2005, and 17 installed after December 31 of 2005, have a 18 minimum weighted cage height of 16 inches; is 19 that correct? 20 A. Yes. That's correct. And no manure 21 pass-through. 22 Q. I was just going to ask that question 23 separately. So the committee also decided that 24 for new construction by June 1, 2005, and 25 installed after December 31, 2005, that those</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. And on page 2, under Sysco audits -- 2 A. Yes. 3 Q. -- there's a motion that's being made 4 by Mr. Krouse that the UEP only share the 5 results of a past animal care certified audit 6 with any retail food service or other customer 7 after having received a letter or signed form 8 from the animal care certified company; is that 9 correct? 10 MR. ROBISON: 11        Object to form. 12 A. Yes, I believe so. 13 MR. BIRKHAEUSER: 14 Q. And that motion carried, correct? 15 A. Yes. 16 Q. And so under this proposal by the 17 animal welfare committee, the results of an 18 audit would not be shared with any third party 19 unless the UEP had signed written consent from 20 the audited company. 21 MR. ROBISON: 22        Objection. Mischaracterizes. 23 Assumes facts. Mischaracterizes the document 24 and reality. 25 A. This motion says that only past audit</p>	<p style="text-align: right;">Page 101</p> <p>1 cages not permit manure to pass through; is that 2 correct? 3 A. Yes. 4 Q. Then on the last page that ends in 5 98, we're back to the feeder space issue, and 6 that issue is still being researched; is that 7 correct? 8 MR. ROBISON: 9        Object to form. 10 A. I think the report is that that's 11 been approved and funded so that it could begin. 12 MR. BIRKHAEUSER: 13 Q. So the research has not yet been 14 commenced. 15 A. Looks like it's -- all the 16 preliminaries appear to be done at this point, 17 and it's time to commence. 18 Q. Now it's going to be researched. 19 A. Yes. 20        (Exhibit 112 marked.) 21 MR. BIRKHAEUSER: 22        For the record, we're now looking at 23 Exhibit 112, which bears the Bates numbers 24 UE0153124 through 127. 25 A. Okay, sir.</p>

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<p style="text-align: right;">Page 102</p> <p>1 Q. You've completed your review?</p> <p>2 A. I have.</p> <p>3 Q. Does Exhibit 112 constitute the</p> <p>4 minutes of the producer committee for animal</p> <p>5 welfare dated April 19, 2005?</p> <p>6 A. Yes.</p> <p>7 Q. And did you attend that meeting in</p> <p>8 person?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So on the page that ends in</p> <p>11 125, Dr. Armstrong is, again, appearing before</p> <p>12 the committee, correct?</p> <p>13 A. Yes. He's in attendance.</p> <p>14 Q. And, again, he's presenting the</p> <p>15 scientific committee's views on feeder space; is</p> <p>16 that correct?</p> <p>17 MR. ROBISON:</p> <p>18 Object to form.</p> <p>19 A. Yeah. He was dealing with several</p> <p>20 issues that day, and feeder space is one of</p> <p>21 them.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. Thank you. And this time he's</p> <p>24 presenting a recommendation from the scientific</p> <p>25 committee recommending that producers provide</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. I think so, too. We'll get there in</p> <p>2 just a second.</p> <p>3 A. Okay.</p> <p>4 Q. Did Dr. Armstrong also print --</p> <p>5 excuse me.</p> <p>6 All right. On the page that ends in</p> <p>7 126, there's another motion made at the end of</p> <p>8 the meeting on feeder space, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And you made the motion, and it was</p> <p>11 seconded by Mr. Bynum, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And the motion is that effective</p> <p>14 April 1, 2008, all new facilities, new</p> <p>15 construction must be built to provide no less</p> <p>16 than three linear inches of feeder space per</p> <p>17 layer; is that correct?</p> <p>18 A. Yes. It passed.</p> <p>19 Q. And that motion passed.</p> <p>20 (Exhibit 113 marked.)</p> <p>21 MR. BIRKHAEUSER:</p> <p>22 For the record, the witness is</p> <p>23 reviewing Exhibit 113, which bears the Bates</p> <p>24 number UE0153065. I'm sorry. It goes on for</p> <p>25 two pages. So it goes on for one additional</p>
<p style="text-align: right;">Page 103</p> <p>1 ideally four inches and a minimum of three</p> <p>2 inches of feeder space for all new construction;</p> <p>3 is that correct?</p> <p>4 MR. ROBISON:</p> <p>5 Object to form.</p> <p>6 A. Yes. It's correct.</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 Q. And previously the scientific</p> <p>9 committee had recommended four inches.</p> <p>10 A. Previously they had recommended four</p> <p>11 to six inches, and now, due to more recent</p> <p>12 information, they were agreed to reduce that</p> <p>13 while further testing or further investigation</p> <p>14 is done.</p> <p>15 Q. And a motion was made to recommend to</p> <p>16 the Board welfare guidelines for feeder space of</p> <p>17 no less than three inches per layer; is that</p> <p>18 correct?</p> <p>19 MR. ROBISON:</p> <p>20 Object to form. Incomplete.</p> <p>21 A. Well, yes. I think that's correct.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. And that motion was withdrawn.</p> <p>24 A. Yes. There's a later motion in that</p> <p>25 meeting that addresses it, I think.</p>	<p style="text-align: right;">Page 105</p> <p>1 page. It ends in 66.</p> <p>2 A. I think I'm ready.</p> <p>3 Q. Okay. Does Exhibit 113 constitute</p> <p>4 the minutes of a meeting held on December 1,</p> <p>5 2005, of the producer committee for animal</p> <p>6 welfare?</p> <p>7 A. Yes, it does.</p> <p>8 Q. And it took place in Chicago,</p> <p>9 Illinois?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And you were present?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And on the bottom of page 65 and</p> <p>14 spilling over to page 66, there's a report from</p> <p>15 Mr. Gregory on the study being conducted of</p> <p>16 feeder space, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And as of December 1, 2005, that</p> <p>19 issue is still under study.</p> <p>20 MR. ROBISON:</p> <p>21 Object to form. Vague.</p> <p>22 A. Yes. And he's announcing that they</p> <p>23 hope to do a further study, an epidemiological</p> <p>24 study as well.</p> <p>25 MR. BIRKHAEUSER:</p>

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<p style="text-align: right;">Page 106</p> <p>1 Q. Okay. Thank you. 2 (Exhibit 114 marked.) 3 MR. BIRKHAEUSER: 4 For the record, we're looking at 5 Exhibit 114, Bates numbered UE0152993 through 6 996. 7 A. All right, sir. 8 Q. Okay. And I'm directing you to page 9 995. And we're discussing the ammonia 10 guidelines -- strike that. 11 On page 995, the committee is 12 discussing the ammonia guidelines, correct? 13 A. Yes. 14 Q. And Mr. Gregory reported to the 15 committee that when it was writing the 16 guidelines of the UEP certified program, there 17 was a difference of opinion on the ability of 18 the industry to meet the scientific committee's 19 recommendation in regard to ammonia; is that 20 correct? 21 MR. ROBISON: 22 Object to form. Vague. 23 A. Yes, that's the report here. 24 MR. BIRKHAEUSER: 25 Q. And Mr. Gregory reports that, given</p>	<p style="text-align: right;">Page 108</p> <p>1 A. To my knowledge, it's still there. 2 It was at this time. 3 Q. And that was the recommendation -- 4 that was the previous recommendation -- 5 A. That was one of the points of 6 consideration as we established our program 7 originally. But the scientific committee 8 continued to recommend the change, and we're 9 responsive to their wishes. And now -- 10 gradually we got there -- we're moving there. 11 Q. And I guess that's my point because 12 before you told us about the human standard, the 13 question I had asked was that in this motion the 14 animal welfare committee was approving the 15 scientific committee's recommendation of 16 25 parts per million -- 17 A. That is correct. 18 Q. -- at its October 10, 2006, meeting 19 in San Antonio. 20 A. Yes. 21 MR. BIRKHAEUSER: 22 Okay. I would like to move on now to 23 topic number 8 of the deposition notice under 24 Rule 30(b)(6). And that topic requires 25 Cal-Maine to produce a witness regarding its</p>
<p style="text-align: right;">Page 107</p> <p>1 the industry has had nearly four years to work 2 with the ammonia issue, he was recommending that 3 the UEP certified guidelines be changed to be 4 consistent with the scientific committee 5 recommendations; is that correct? 6 MR. ROBISON: 7 Objection. Incomplete. 8 A. That's what it says, sir. 9 MR. BIRKHAEUSER: 10 Q. And there was a motion by Mr. Krouse 11 to revise the UEP certified guidelines that the 12 ammonia concentration to which birds should be 13 exposed should be ideally less than 10 parts per 14 million, and should not exceed 25 parts per 15 million, but temporary accesses should not 16 adversely affect bird health; is that correct? 17 A. I might point out that the committee 18 was slow to get to this point because the OSHA 19 standard for humans is at 50 parts per million, 20 and we were concerned about the ability of 21 everyone to meet that standard; but, at this 22 point, it was determined to move ahead, and it 23 went to 25 parts per million in this motion. 24 Q. So the OSHA standard for humans is 25 50 parts per million.</p>	<p style="text-align: right;">Page 109</p> <p>1 cage space allowances, including any changes 2 over time to your cage space allowances and 3 reasons for same, and the impact of changes to 4 cage space allowances on your house or farm 5 capacity or population. 6 It's my understanding that Mr. Storm 7 has been designated for that topic. 8 MR. ROBISON: 9 Subject to objections, but, yes. 10 MR. BIRKHAEUSER: 11 Q. Are you indeed the person most 12 knowledgeable at Cal-Maine regarding cage space 13 allowances? 14 A. I'm certainly knowledgeable of it. 15 Q. How did you prepare to respond to 16 this topic? 17 A. I reviewed the guidelines and our 18 history, and which we complied with the 19 guidelines. 20 Q. Did you research Cal-Maine's cage 21 space allowances prior to the guidelines? 22 A. I'm aware of them. 23 Q. Did you speak with any other 24 Cal-Maine employees about the topics set forth 25 in topic number 8?</p>

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<p>1     A. The topic being the --</p> <p>2     Q. Cage space allowance.</p> <p>3     A. -- the implementation of the cage</p> <p>4 space guidelines.</p> <p>5     Q. Cage space allowances, changes over</p> <p>6 time to cage space allowances, and the impact of</p> <p>7 changes to cage space allowances.</p> <p>8     A. No. I was fully aware of what they</p> <p>9 were throughout our company.</p> <p>10    Q. Did you review any documents relating</p> <p>11 to cage space allowances?</p> <p>12    A. Yes. I reviewed the -- number one,</p> <p>13 the guidelines, just to review the timing</p> <p>14 requirements.</p> <p>15    Q. Any other documents that you --</p> <p>16    A. And it was -- throughout the</p> <p>17 progress, throughout the period, it was a weekly</p> <p>18 concern. We were dealing with it daily on</p> <p>19 meeting those guidelines.</p> <p>20    Q. I'm sorry. The question deals with</p> <p>21 documents. The question deals with documents,</p> <p>22 and I asked you whether you reviewed any</p> <p>23 documents, and you told me that you reviewed the</p> <p>24 guidelines.</p> <p>25    Did you review any other documents</p>	Page 110	<p>1     Q. Okay. So once the program was</p> <p>2 instituted -- and in your mind, what's that</p> <p>3 date?</p> <p>4     A. The date would be -- the first date</p> <p>5 that affected us was April 1, 2002, for chicks</p> <p>6 hatched after that date. Their housing date</p> <p>7 would be in the summer when they were mature,</p> <p>8 some 17 weeks later.</p> <p>9     Q. So for all chicks hatched after</p> <p>10 April 1, 2002, what were the cage space</p> <p>11 allowances?</p> <p>12    A. For white chickens, 56 square inches</p> <p>13 per bird. We had a few brown chickens that</p> <p>14 were -- came into play, but not many, and those</p> <p>15 were at 63 square inches per bird at that point.</p> <p>16    Q. And how did that change over time?</p> <p>17 MR. ROBISON:</p> <p>18       Object to form. Vague.</p> <p>19    A. How did the housing rates change?</p> <p>20 MR. BIRKHAEUSER:</p> <p>21    Q. Yes.</p> <p>22    A. According to the animal welfare</p> <p>23 guidelines, chicks hatched after October 1,</p> <p>24 2003, when they were housed in the layer house,</p> <p>25 they were housed at 59 square inches for white</p>	Page 112
<p>1     besides the guidelines in order to testify</p> <p>2 today?</p> <p>3     A. No.</p> <p>4 MR. ROBISON:</p> <p>5       You mean about topic 8?</p> <p>6 MR. BIRKHAEUSER:</p> <p>7       About topic 8. I'm sorry.</p> <p>8     Q. No?</p> <p>9     A. No.</p> <p>10    Q. Prior to the institution of the</p> <p>11 guidelines, what were Cal-Maine's cage space</p> <p>12 allowances?</p> <p>13    A. They varied somewhat. They were</p> <p>14 predominantly 53 and a third inches. There was</p> <p>15 some in the 60-plus-inch range and a few that</p> <p>16 were -- we had a couple of contract houses that</p> <p>17 were near 48 inches.</p> <p>18    And prior to the implementation of</p> <p>19 that, we produced a sheet to note the square</p> <p>20 inches in every house and how many birds that we</p> <p>21 housed in there and what that was, and then what</p> <p>22 would be the allowed bird numbers by house going</p> <p>23 forward through the program. And that's the</p> <p>24 manner in which we refilled houses as time went</p> <p>25 along through the program.</p>	Page 111	<p>1     birds and 66 square inches for brown birds. And</p> <p>2 I can read you the remainder of the program, if</p> <p>3 you'd like.</p> <p>4     Q. Please.</p> <p>5     A. Then in April 1, 2005, was the next</p> <p>6 point. And at that point, chicks hatched then</p> <p>7 or after were housed at 61 square inches for</p> <p>8 white chickens and 68 square inches for brown.</p> <p>9       At October 1, 2006, was the next</p> <p>10 date. And for that, it's 64 square inches per</p> <p>11 bird for white birds and 72 square inches for</p> <p>12 brown birds.</p> <p>13       And the final date is April 1, 2008,</p> <p>14 67 square inches for white birds and 76 square</p> <p>15 inches for the brown birds, brown cage birds.</p> <p>16       Cage free birds are on a different</p> <p>17 schedule altogether.</p> <p>18    Q. And Cal-Maine had some cage free</p> <p>19 birds, correct?</p> <p>20    A. Yes.</p> <p>21    Q. But the large majority of its birds</p> <p>22 were caged birds.</p> <p>23    A. That's correct. All of these -- what</p> <p>24 I read you applies as indicated, but it's</p> <p>25 enforced on a house averaging basis for existing</p>	Page 113

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<p style="text-align: right;">Page 114</p> <p>1 houses. So you would consider -- it's almost 2 like you would consider the house as one big 3 cage and calculate the bird requirements. 4 But for newer facilities that were 5 put in place by December 31 of '03, those 6 cages -- those houses had to comply on a cage 7 basis, not a house averaging basis. 8 Q. So essentially it's your testimony 9 that Cal-Maine complied with the animal welfare 10 guidelines with respect to cage limitations -- 11 cage space limitations. 12 A. Precisely. 13 Q. And were you responsible at Cal-Maine 14 for insuring compliance with the animal welfare 15 guidelines? 16 MR. ROBISON: 17 Object to form. 18 A. I was not a police officer in that 19 respect, but our upper management directed us to 20 work the program and do it as indicated, and 21 this is exactly what we did in all areas of 22 operation. 23 MR. BIRKHAEUSER: 24 Q. And what upper management directed 25 you to comply with the animal welfare</p>	<p style="text-align: right;">Page 116</p> <p>1 this resulted in fewer hens per house. 2 MR. ROBISON: 3 Objection. Same objections. 4 A. It did for those existing houses. It 5 did not necessarily result in fewer hens for 6 Cal-Maine. 7 MR. BIRKHAEUSER: 8 Q. Sure. I'm going to just confine my 9 answers for this part of the questions to the 10 actual houses that contain hens. I'm not going 11 to ask you questions about Cal-Maine's 12 operations as a whole. 13 In October of 2003, we have our next 14 change, where we're increasing the space to 15 59 for white and 66 for brown chickens, correct? 16 A. Yes. 17 Q. And did that also result in the 18 reduction of the number of hens that could be 19 housed in any given house? 20 MR. ROBISON: 21 Same objections. 22 A. Yes. In each step increasing amount 23 of space was devoted to individual birds, which 24 resulted in fewer hens in the existing 25 structure.</p>
<p style="text-align: right;">Page 115</p> <p>1 guidelines? 2 A. Our President. 3 Q. Mr. Baker? 4 A. Yes. 5 Q. Generally, the guidelines required 6 Cal-Maine to reduce the hen population, at least 7 at first, in a given house; is that correct? 8 MR. ROBISON: 9 Object to form. Mischaracterizes. 10 Best evidence. 11 A. For the space available within an 12 existing house, there were -- more space was 13 given to each individual hen, resulting in fewer 14 hens per house. 15 MR. BIRKHAEUSER: 16 Q. Fewer hens per house after the 17 guidelines were complied with? 18 MR. ROBISON: 19 Same objections. 20 A. Yes. 21 MR. BIRKHAEUSER: 22 Q. I'm sorry. There was just a little 23 confusion in your answer, so I just wanted to 24 make sure we're clear. So after Cal-Maine 25 complied with the guidelines in April 1 of 2002,</p>	<p style="text-align: right;">Page 117</p> <p>1 MR. BIRKHAEUSER: 2 Q. So hens were reduced in any given 3 house in April of 2005. 4 MR. ROBISON: 5 Same objections. 6 A. I think that was the next step, yes. 7 MR. BIRKHAEUSER: 8 Q. And then hens were reduced in any 9 given house in October of 2006. 10 MR. ROBISON: 11 Same objections. 12 A. Yes. 13 MR. BIRKHAEUSER: 14 Q. And then hens were reduced in any 15 given house in April of 2008. 16 MR. ROBISON: 17 Same objections. 18 A. This was done in a lot of small 19 steps, so as to be able to continue to take care 20 of our customers. 21 MR. BIRKHAEUSER: 22 Q. I understand. What documents, to 23 your knowledge, reflect Cal-Maine's compliance 24 with the animal welfare guidelines? 25 A. The -- specifically we have</p>

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<p style="text-align: right;">Page 118</p> <p>1 production records on every flock every week.    2 Q. And what are those records called?    3 Are they called production records per flock?    4 A. That would do. Everybody knows what    5 that would mean.    6 Just the historical data on    7 performance in terms of eggs laid, mortality,    8 feed consumed, things like that.    9 Q. Okay. Are those documents    10 computerized?    11 A. Yes and no.    12 Q. Are there any hard copy reports that    13 are prepared?    14 A. Yes. Usually -- yes, I think there    15 are, but we predominantly receive those in    16 summary.    17 Q. Okay. And so, for example, the flock    18 reduction reports that we saw yesterday that    19 were prepared at the Monday meetings, those    20 would represent flock reduction resulting from    21 Cal-Maine's compliance with the animal welfare    22 guidelines; is that correct?    23 MR. ROBISON:    24 Object to form. Mischaracterizes.    25 A. I don't think you could determine</p>	<p style="text-align: right;">Page 120</p> <p>1 A. Flock records. If you wanted to know    2 about our compliance, you should probably look    3 at the audits. There's many audits for various    4 locations every year.    5 Q. My -- if I wanted to look at the    6 reduction in hens that resulted from Cal-Maine's    7 compliance with the animal welfare guidelines,    8 would I consult the flock records?    9 MR. ROBISON:    10 Object to form. Assumes facts.    11 A. I don't really know how you could do    12 that. I don't know how I could do that.    13 MR. BIRKHAEUSER:    14 Q. Were flock records -- you said    15 sometimes flock records were printed out?    16 A. Yes.    17 Q. And was that a report that was    18 prepared and physically delivered to certain    19 officers or employees of Cal-Maine?    20 MR. ROBISON:    21 Object to form. Foundation.    22 A. Employees, yes.    23 MR. BIRKHAEUSER:    24 Q. Which employees?    25 A. Well, the employees at each location</p>
<p style="text-align: right;">Page 119</p> <p>1 anything from that report. I think it's just --    2 this just indicates the total number of birds    3 that we had each week, the total number of    4 layers each week.    5 Now, I don't think it would indicate    6 whether or not we were on the program because we    7 bought facilities, we built facilities. When    8 there's a change, it's -- this change -- every    9 one of these changes was for a period of about a    10 year and a half, so over the year and a half    11 there was a change with every hatch. So it's a    12 gradual change.    13 And to -- you couldn't look at that    14 report and, I would say, determine anything    15 about where -- our compliance or anything like    16 that as to this program.    17 MR. BIRKHAEUSER:    18 Q. So did you bring any documents today    19 reflecting Cal-Maine's compliance with the    20 animal welfare guidelines with respect to flock    21 reduction?    22 A. No.    23 Q. So I guess I'm wondering, if I wanted    24 to find those documents, what would they be    25 called?</p>	<p style="text-align: right;">Page 121</p> <p>1 would deal with individual records for    2 individual flocks that they had control over.    3 Q. And were they created on Excel spread    4 sheets or in what format?    5 A. No. There was a particular program    6 that we used, a computer program --    7 Q. What was that --    8 A. -- during those years.    9 Q. I'm sorry?    10 A. During those years.    11 Q. What was that program called?    12 A. It was written by Chilson Management    13 systems, and I think it's the flock program, I    14 guess.    15 Q. So if somebody wanted to understand    16 this data of the flock at any given time, they    17 would consult the Chilson records?    18 MR. ROBISON:    19 Object to form.    20 A. Exactly what do you mean -- excuse    21 me, what do you mean? To understand what,    22 exactly?    23 MR. BIRKHAEUSER:    24 Q. If they wanted to understand    25 statistics relating to the flock, they would</p>

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<p style="text-align: right;">Page 122</p> <p>1 consult records that were maintained on the 2 Chilson system.</p> <p>3 MR. ROBISON:</p> <p>4 Object to form. Vague.</p> <p>5 A. From the individual flock records, we 6 would summarize a lot of that information into 7 various different reports by location and 8 otherwise, even into a total per week.</p> <p>9 The number, for example, you referred 10 to while ago on that report that you had showed 11 a total number of hens for all of Cal-Maine on 12 that week. That is true.</p> <p>13 Now, does it show that we were 14 increasing or decreasing according to this 15 program? I don't think you could ever look at 16 that enough to make any determination about 17 that. It just won't reflect that.</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. Were Chilson records prepared -- who 20 entered the data for the records of the Chilson 21 system?</p> <p>22 MR. ROBISON:</p> <p>23 Object to form.</p> <p>24 A. Accountants at our locations around 25 the company, like 25 or 30 places.</p>	<p style="text-align: right;">Page 124</p> <p>1 of the house at any given time, correct? 2 A. Every week you affect it by 3 mortality, and the remainder is the remaining 4 population.</p> <p>5 Q. And the Chilson system then gives you 6 the ability to generate reports on a 7 company-wide basis; is that correct?</p> <p>8 MR. ROBISON:</p> <p>9 Object to form.</p> <p>10 A. No. They're just local reports that 11 are -- some of which are then compiled on a 12 company-wide basis.</p> <p>13 MR. BIRKHAEUSER:</p> <p>14 Q. I understand. And who compiles the 15 reports on a company-wide basis?</p> <p>16 A. Some of that's done in our Jackson 17 office. The one you were looking at is such a 18 report.</p> <p>19 Q. So the report that we discussed that 20 was presented at the Monday meetings, those were 21 generated by Jackson staff; is that correct?</p> <p>22 MR. ROBISON:</p> <p>23 Object to form.</p> <p>24 A. Yes. The paper was generated. The 25 report was a compilation of location reports</p>
<p style="text-align: right;">Page 123</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. Some of the locations that we 3 discussed yesterday, for example.</p> <p>4 A. For example. That's some of our 5 locations.</p> <p>6 Q. And what type of data would they 7 enter with respect to the flock?</p> <p>8 MR. ROBISON:</p> <p>9 Object to form.</p> <p>10 A. Well, you know, it's an ongoing 11 weekly changing record for a flock. And so you 12 show initially the birds that went into the 13 house. And then every week you've got 14 information about feed consumed, about eggs 15 produced, about the mortality of the flocks and 16 other related information to that.</p> <p>17 MR. BIRKHAEUSER:</p> <p>18 Q. And in a given facility, are records 19 kept on a house-by-house basis?</p> <p>20 MR. ROBISON:</p> <p>21 Object to form. Vague.</p> <p>22 A. Yes, they are.</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Q. And the records kept on the 25 house-to-house basis would show the population</p>	<p style="text-align: right;">Page 125</p> <p>1 into a total.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. Topic number 10 is your backfilling 4 practices and any changes to those practices. 5 The topic goes on: "This includes the number of 6 hens that you backfilled by year-end location, 7 farm, and house."</p> <p>8 I understand that you are being 9 offered as the person most knowledgeable about 10 that topic; is that correct?</p> <p>11 MR. ROBISON:</p> <p>12 Object to form.</p> <p>13 A. Yes. That's correct.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. What did you do to prepare to respond 16 to this topic?</p> <p>17 A. I reviewed our programs, our 18 procedures over that period of time.</p> <p>19 Q. And where are those -- are those 20 procedures in written form?</p> <p>21 A. Not at this point. We don't do that 22 anymore. We -- I might say that prior to the 23 animal welfare program we did not backfill. Or 24 if we did, it would be very occasional.</p> <p>25 At the onset of the program, we, too,</p>

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<p style="text-align: right;">Page 126</p> <p>1 were worried about being short of eggs for 2 customers and thought that at molt time we 3 should try to refill these houses to get the 4 most eggs possible out of the houses for our 5 customers.</p> <p>6 And we did that for a period of time, 7 a year or something like that; but, in the 8 course of that, as we -- there's a lot of 9 different ways to accomplish that, and different 10 facilities demand different methods. But 11 around -- as we did that around our company for 12 some several months, we came to the conclusion 13 that it wasn't worthwhile for Cal-Maine to 14 backfill and stopped doing so at about the same 15 time.</p> <p>16 I think we had a couple locations 17 still backfilling when the rules were changed, 18 and at that time all backfilling ceased with 19 Cal-Maine.</p> <p>20 Q. Okay. You were a little bit vague in 21 the time period in your response. When was it 22 that Cal-Maine as a company policy stopped 23 backfilling?</p> <p>24 MR. ROBISON: 25 Object to form.</p>	<p style="text-align: right;">Page 128</p> <p>1 discontinued before then, as it happens. That's 2 just the way it worked out.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. Are there any documents that reflect 5 the amount of backfilling that occurred prior to 6 the ban by the animal welfare guidelines?</p> <p>7 A. That would show numbers --</p> <p>8 Q. Yes.</p> <p>9 A. -- of birds backfilled? No, except 10 that it was in the -- those numbers were 11 included in the flock files that were maintained 12 at the locations and that were audited by the 13 outside auditors. So those numbers exist and 14 existed, but they're not accumulated or known as 15 a total number or anything like that.</p> <p>16 Q. It's unknown to Cal-Maine how many 17 hens were backfilled in a given year during the 18 time when Cal-Maine engaged in that practice; is 19 that correct?</p> <p>20 A. In total, yeah, we don't know that 21 number. We could probably find it, but we don't 22 know it.</p> <p>23 Q. So since you don't know the total 24 number, then you certainly couldn't identify 25 that by year or location; is that correct?</p>
<p style="text-align: right;">Page 127</p> <p>1 A. We finally stopped totally when it 2 was stopped by rule of the animal welfare 3 program.</p> <p>4 MR. BIRKHAEUSER:</p> <p>5 Q. And do you have a date in mind for 6 when that was?</p> <p>7 A. We looked at that date a few minutes 8 ago. I don't recall that at this moment.</p> <p>9 Q. Sure. But that was, again, the 10 animal welfare committee that would make a 11 recommendation to the Board, which would 12 ultimately be approved --</p> <p>13 A. The last time we saw that was about 14 when it happened.</p> <p>15 Q. All right. So whenever it was that 16 the Board finally approved the backfilling ban, 17 Cal-Maine ceased its backfilling practices.</p> <p>18 MR. ROBISON: 19 Object to form.</p> <p>20 A. Right.</p> <p>21 MR. BIRKHAEUSER:</p> <p>22 Q. Is that correct?</p> <p>23 MR. ROBISON: 24 Same objection.</p> <p>25 A. In total. But we had largely</p>	<p style="text-align: right;">Page 129</p> <p>1 A. No. But we began that in late '02, 2 early '03, when we began to feel some of the 3 effects of -- in the chicken houses. We were 4 concerned about producing enough eggs for our 5 customers.</p> <p>6 Q. When you say you began that --</p> <p>7 A. We began backfilling, trying it here 8 and there. Then more of it was occurring after 9 that, trying to determine a process or a 10 procedure for that.</p> <p>11 Q. So if I understand your testimony, 12 before the guidelines were instituted, Cal-Maine 13 didn't backfill at all.</p> <p>14 A. No.</p> <p>15 Q. And once the guidelines were 16 instituted, Cal-Maine started to backfill a 17 little bit.</p> <p>18 A. We experimented.</p> <p>19 Q. And then the guidelines came out that 20 prohibited backfilling, and Cal-Maine stopped 21 backfilling.</p> <p>22 MR. ROBISON: 23 Object to form.</p> <p>24 MR. BIRKHAEUSER: 25 Q. Is that correct?</p>

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<p style="text-align: right;">Page 130</p> <p>1 A. That's correct. Technically correct.  2 But we were already discontinuing by the time  3 that final date came, but at that time there was  4 a place or two still doing some.  5 Q. Okay. Topic number 11 is your  6 molting practices and any changes to those  7 practices. This includes the number of hens  8 that you molted by year and by location, farm,  9 and house.  10 Are you the person most knowledgeable  11 at Cal-Maine about its molting practices?  12 MR. ROBISON:  13 Object to form.  14 A. I'm certainly equally knowledgeable.  15 MR. BIRKHAEUSER:  16 Q. You're prepared to respond as the  17 corporate designee to this topic?  18 MR. ROBISON:  19 Same objections.  20 A. As it relates to our practices, yes.  21 MR. BIRKHAEUSER:  22 Q. How did you prepare to respond to  23 this topic?  24 A. You know, I'm prepared every day.  25 I'm fully aware of it and have been for all</p>	<p style="text-align: right;">Page 132</p> <p>1 A. I'm sorry.  2 Q. It's okay. It's just the record. If  3 you interrupt, then we don't know really what  4 you've answered.  5 So did Cal-Maine adjust the light to  6 which hens were exposed in order to induce molt  7 prior to the guidelines?  8 A. Yes. Lighting was part of the  9 program, adjusting lighting.  10 Q. Were there any other components to  11 Cal-Maine's molting program prior to the  12 guidelines?  13 A. Yes, one other. We artificially  14 heated the houses keeping a warm temperature for  15 the chickens.  16 Q. And prior to the guidelines, did  17 Cal-Maine have any requirements relating to the  18 body weight of the hens at the end of the molt?  19 A. Yes. The objective was always to  20 achieve a good molt with a minimum mortality.  21 And one of the ways to determine the success of  22 the molt was to look at the change in body  23 weight.  24 Q. Did Cal-Maine have any standards  25 relating to body weight at the end of the molt</p>
<p style="text-align: right;">Page 131</p> <p>1 these times.  2 Q. Did you speak with any other  3 Cal-Maine employees to prepare your testimony  4 today?  5 A. No.  6 Q. Did you consult any documents?  7 A. Not concerning molting.  8 Q. Okay. So prior to the institution of  9 the animal welfare guidelines, what were  10 Cal-Maine's molting practices?  11 A. It's our practice to molt all of our  12 white leghorn chickens.  13 Q. It was your practice to molt all of  14 the white leghorn chickens?  15 A. Yes. And not molt typically the  16 brown chickens. There are always exceptions,  17 but our program was to do that.  18 Q. And how did Cal-Maine molt its white  19 leghorn chickens before the guidelines?  20 A. We initiated the molt by removing  21 feed.  22 Q. Did Cal-Maine adjust the light?  23 A. Yes. Yeah, we had a light program  24 regarding that -- pardon me, did I jump in?  25 Q. Yeah.</p>	<p style="text-align: right;">Page 133</p> <p>1 prior to the guidelines?  2 MR. ROBISON:  3 Object to form. Vague.  4 A. Our program involved a premolt  5 weight, average weight of a sample of the house,  6 and then the target weight involved at what  7 point that you began to feed back -- return feed  8 to the chickens, not at the end of the molt.  9 MR. BIRKHAEUSER:  10 Q. And what was that target weight as it  11 presented -- as a percentage of the starting  12 weight?  13 A. Under ideal conditions, it would be  14 approximately 35 percent.  15 Q. And that was prior to the guidelines.  16 A. Yes, sir.  17 Q. And then did those practices change  18 once the guidelines were instituted?  19 A. Yes.  20 Q. How did they change?  21 A. Well, no, not initially, because the  22 initial -- most of the -- well, let me  23 rephrase -- resay. We continued to withdraw  24 feed because that was allowed initially with the  25 guidelines. And we adjusted our weight target</p>

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<p style="text-align: right;">Page 134</p> <p>1 back to about 30 percent because that was the 2 target of the animal welfare guideline. 3 Q. And then did the practice that you've 4 just articulated change further? 5 A. The practice that changed further was 6 that when the committee and UEP further adopted 7 to allow only non-feed withdrawal molts, then we 8 complied with that. We changed our practice to 9 no longer withdraw feed. 10 Q. And when did Cal-Maine stop 11 withdrawing feed? 12 MR. ROBISON: 13 Object to form. 14 A. When we had to. 15 MR. BIRKHAEUSER: 16 Q. Whenever the UEP Board approved the 17 welfare guidelines that prohibited feed 18 withdrawal? 19 A. That is correct. 20 Q. Whenever that date was, Cal-Maine 21 complied? 22 A. That's correct. 23 MR. BIRKHAEUSER: 24 Let's go off the record for just 25 about five minutes.</p>	<p style="text-align: right;">Page 136</p> <p>1 when it's time to sell birds or get rid of old 2 birds. 3 Q. And how do you spent them? 4 A. What we -- forever, the preferred 5 method has been to sell them to a 6 slaughterhouse, and that's always our 7 preference. It's typically the most economic 8 thing to do as well. 9 Over the course of the -- there's 10 been times in the last 10 to 15 years when that 11 market was not available, that option was not 12 available, for a variety of reasons which are 13 not especially important, and I won't go into 14 them, but it became unavailable for a period of 15 time, and at that time we had to find some 16 alternative method to dispose of hens. 17 And we at that point went primarily 18 to rendering. Rendering companies initially 19 were -- they were hesitant about accepting too 20 many hens, too many as relates to the size of 21 their rendering operation, because the feathers 22 posed a problem for most of them and their 23 products. 24 But eventually, a process was worked 25 out so that that could be overcome, and</p>
<p style="text-align: right;">Page 135</p> <p>1 VIDEOGRAPHER: 2 One moment. We are now going off the 3 record. The time is 2:01 p.m. 4 (A recess was taken.) 5 VIDEOGRAPHER: 6 We are now going back on the record. 7 The time is 2707 p.m. 8 MR. BIRKHAEUSER: 9 Q. Okay, sir. Topic 12 is your flock 10 disposal practices and any changes to those 11 practices. Are you indeed the person most 12 knowledgeable at Cal-Maine about its flock 13 disposal practices? 14 MR. ROBISON: 15 Object to form. 16 A. I am equally knowledgeable as anybody 17 else. 18 MR. BIRKHAEUSER: 19 Q. Okay. So let's use the guideline 20 implementation as a benchmark for time again in 21 your response. 22 What were Cal-Maine's flock disposal 23 practices prior to the guidelines? 24 A. When you say flock disposal, I assume 25 you mean the -- what do you do with spent hens</p>	<p style="text-align: right;">Page 137</p> <p>1 rendering companies could, in fact, take most of 2 even the national flocks. 3 As time went along, the availability 4 of slaughter came back into the picture and is 5 now the -- once again, the preferred means of 6 disposing of hens. 7 During the time that slaughter was 8 unavailable, we also had another alternative 9 means, and that was, in a couple of areas, 10 composting. 11 Either way -- when we move birds out 12 of the house to the slaughterhouse, they move 13 out live on cage carts. For rendering or for 14 composting, we have to kill the birds before 15 they leave the house or as they leave the 16 chicken house. 17 Q. And you're speaking now of hens, 18 correct? 19 A. Yes, I am. 20 Q. Does Cal-Maine have records that 21 reflect the number of slaughter, number of hens 22 slaughtered during a given time period? 23 A. Yes. They all are. 24 Q. And what are those records called? 25 A. Well, it depends on what you exactly</p>

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<p style="text-align: right;">Page 138</p> <p>1 mean. Every flock record shows how many you 2 dispose of at the end of that final cycle, for 3 one thing. Then we count those birds, and we 4 show those as sold to the slaughter plant. 5 We recap those numbers across the 6 company and look at how many every week 7 happen -- that are disposed of. So -- did I hit 8 upon it somewhere there?</p> <p>9 Q. I guess the whole purpose of my 10 question is to be able to identify the records 11 when I see them because I'm not a Cal-Maine 12 employee, and I don't have you standing over my 13 shoulder when I'm looking at Cal-Maine records. 14 So the purpose of my question is to identify the 15 documents.</p> <p>16 To the best of your knowledge, what 17 would the records be called that reflect the 18 number of hens that are slaughtered at any given 19 time?</p> <p>20 A. Well, the way you say that confuses 21 me a little, but flock records will show how 22 many were moved out of the house whenever it's 23 disposed of, no matter what the means.</p> <p>24 Now, to say how many are slaughtered 25 at any given time, if that means a week or a day</p>	<p style="text-align: right;">Page 140</p> <p>1 a format that resembles an Excel spreadsheet? 2 A. Somewhat. 3 Q. What would the column be called that 4 deals with slaughter? 5 A. On the ones that we have that look 6 like an Excel spreadsheet, that column is not on 7 there. 8 Q. If you wanted to -- are any written 9 reports prepared in hard copy format that relate 10 to slaughter? 11 A. Slaughter only? Not that I'm aware 12 of. There could be, but I don't see it. I'm 13 not aware of it. 14 Q. How about mortality? 15 A. What we do have is a weekly situation 16 report that has on there somewhere the totals 17 for this week of slaughter, of birds removed 18 from the flock, birds put into the flock and so 19 forth. So we have weekly totals across the 20 company. 21 Q. Excellent. So the weekly totals 22 would contain figures relating to slaughter. 23 A. Yes, or disappearance -- well, not 24 just disappearance. The spent hens removed from 25 the flocks.</p>
<p style="text-align: right;">Page 139</p> <p>1 or a month or a year, we do look at that. We do 2 total that by the week in some of our reports, 3 in a weekly situation report. It's just a 4 summary of the information supplied by the 5 locations.</p> <p>6 Q. So let me just try it a little bit 7 different. The flock records are computerized?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have an understanding of what 10 a data field is?</p> <p>11 A. Sounds like a database to me.</p> <p>12 Q. Are the flock records a database as 13 you understand that term?</p> <p>14 A. You know, I'm not sure. We're in 15 about a four-year period of transitioning to a 16 new ERP system, which involves our flock system, 17 and I would be very hesitant to try to tell you 18 exactly how that works.</p> <p>19 Q. Do you ever use Excel spreadsheets?</p> <p>20 A. I do.</p> <p>21 Q. Okay. Excel spreadsheets have 22 columns.</p> <p>23 A. Yes, they do.</p> <p>24 Q. And the columns sometimes have 25 titles. Are the flock records ever presented in</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. That would include natural mortality, 2 correct? 3 A. No. It would include slaughter or 4 rendering or whatever you do to dispose of the 5 flock. 6 Q. So the disappearance figure on the 7 weekly report would include all hens that didn't 8 meet a natural death? 9 MR. ROBISON: 10 Object to form. 11 MR. BIRKHAEUSER: 12 That's a bad one. 13 Q. The weekly report would contain -- 14 would show a disappearance number; is that 15 correct? 16 A. The weekly report would show the 17 ending number of hens and -- it shows a summary 18 across the entire company. It shows how many 19 birds you have -- or how many came into the 20 flock, how many exited the flock, what mortality 21 was, and so forth. Also, some productivity 22 information. 23 Q. Did it have a figure that's 24 specifically listed as disappearance? 25 A. Not disappearance, but it has sold, I</p>

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<p style="text-align: right;">Page 142</p> <p>1 think is what the term is on that report.</p> <p>2 Q. Sold.</p> <p>3 A. Meaning birds that were removed as</p> <p>4 spent hens.</p> <p>5 Q. Okay.</p> <p>6 A. We used to always sell them. Now</p> <p>7 sometimes you don't get to sell them. They just</p> <p>8 still leave, though.</p> <p>9 Q. We still call it -- Cal-Maine still</p> <p>10 calls it sold.</p> <p>11 A. Yeah, on that report.</p> <p>12 Q. And that means that it was</p> <p>13 slaughtered.</p> <p>14 A. (Witness nodding head.)</p> <p>15 Q. Yes?</p> <p>16 A. Yes.</p> <p>17 Q. The next topic is topic number 13,</p> <p>18 your beak trimming practices and any changes to</p> <p>19 those practices.</p> <p>20 Are you indeed the person most</p> <p>21 knowledgeable at Cal-Maine about the beak</p> <p>22 trimming?</p> <p>23 MR. ROBISON:</p> <p>24 Object to form.</p> <p>25 A. I'm fully knowledgeable of that.</p>	<p style="text-align: right;">Page 144</p> <p>1 trimmed all chickens -- all baby chicks that</p> <p>2 were going to be grown in open side houses, and</p> <p>3 the ones that were going to be totally enclosed</p> <p>4 were not beak trimmed. In either case, they</p> <p>5 were trimmed again at about ten weeks.</p> <p>6 Upon beginning the animal welfare</p> <p>7 program, we went back to trimming all birds at</p> <p>8 day old, and then -- most birds were also as</p> <p>9 needed, but mostly were trimmed again at about</p> <p>10 eight weeks, to be within the guidelines.</p> <p>11 Q. Did Cal-Maine's method of trimming</p> <p>12 beaks change after the institution of the</p> <p>13 guidelines?</p> <p>14 A. Not as a requirement. They, in fact,</p> <p>15 did change some at the hatchery because of just</p> <p>16 new technology.</p> <p>17 Q. Are there any records that reflect</p> <p>18 Cal-Maine's beak trimming practices?</p> <p>19 A. I doubt it.</p> <p>20 Q. Any training --</p> <p>21 A. Well, there's records in the flock</p> <p>22 records at the locations. That would be where</p> <p>23 the pullets are grown.</p> <p>24 Q. There would be records that X number</p> <p>25 of birds had their beaks trimmed?</p>
<p style="text-align: right;">Page 143</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. About Cal-Maine's beak trimming</p> <p>3 practices?</p> <p>4 A. I'm fully knowledgeable about it.</p> <p>5 Q. Are you prepared to respond to that</p> <p>6 category today?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Did you need to speak to anybody to</p> <p>9 respond today on behalf of Cal-Maine --</p> <p>10 A. No.</p> <p>11 Q. -- with respect to that topic?</p> <p>12 Did you have to review any documents?</p> <p>13 A. No.</p> <p>14 Q. Let's, again, use the animal welfare</p> <p>15 program as a time reference, if necessary, for</p> <p>16 this topic. What were Cal-Maine's beak trimming</p> <p>17 practices prior to the animal welfare</p> <p>18 guidelines?</p> <p>19 A. Some several years prior to the</p> <p>20 initiation of the program, we trimmed all</p> <p>21 day-old chicks, and then they would be trimmed</p> <p>22 again at about -- for a second beak trimming at</p> <p>23 about 12 weeks of age.</p> <p>24 More recently, just prior to the</p> <p>25 onset of the animal welfare program, we beak</p>	<p style="text-align: right;">Page 145</p> <p>1 A. There are also flock records for</p> <p>2 pullets during that stage, which those records</p> <p>3 are transferred with the birds to the layer</p> <p>4 house. So there's some record there.</p> <p>5 And I think it would indicate on the</p> <p>6 delivery papers about week trimming at day old,</p> <p>7 too.</p> <p>8 Q. Pullets are transferred to the laying</p> <p>9 houses at about 20 weeks?</p> <p>10 A. The leghorns at about 17 weeks. The</p> <p>11 browns at about 15 or 16.</p> <p>12 Q. So week trimming occurs before the</p> <p>13 pullets enter the layer house.</p> <p>14 A. Yes, as they are about eight weeks is</p> <p>15 the last.</p> <p>16 Q. And how would one identify the beak</p> <p>17 trimming in the flock records?</p> <p>18 A. It'd just be some entry or some</p> <p>19 document within the folder of information.</p> <p>20 There would be other information from</p> <p>21 the pullets, like the vaccination record, which</p> <p>22 is quite extensive, the mortality records, the</p> <p>23 weights at various points in time, feeding</p> <p>24 history, and anything abnormal that might have</p> <p>25 occurred.</p>

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<p style="text-align: right;">Page 146</p> <p>1 Q. You were talking about mortality.  2 Does beak trimming cause death?  3 A. No.  4 Q. I just wasn't understanding your  5 response. What I'm looking for is how would I  6 identify in the flock records activities  7 relating to beak trimming?  8 A. It would be something that said they  9 trimmed beaks here.  10 Q. On a given hen or on --  11 A. For that flock on a given week,  12 probably.  13 Q. Okay. So week -- it would say for a  14 given flock, week three, beaks were trimmed.  15 A. Yes.  16 Q. Topic number 15 is your contacts with  17 UEP's scientific advisory committee. Are you  18 the person responsible at Cal-Maine for its  19 contacts with the scientific advisory committee?  20 A. Yes.  21 MR. ROBISON:  22 Object to form.  23 A. Yes.  24 MR. BIRKHAEUSER:  25 Q. Do you know whether any employees</p>	<p style="text-align: right;">Page 148</p> <p>1 that she attended some other meeting at which  2 one or two of those members did attend, but they  3 knew they were -- she knew she was at the same  4 meeting as them, but it was a large meeting, and  5 they were not in contact.  6 MR. BIRKHAEUSER:  7 Q. Topic number 19 is Cal-Maine's  8 sponsorship of any animal welfare studies. Are  9 you the person most knowledgeable at Cal-Maine  10 about its sponsorship of any animal welfare  11 studies?  12 MR. ROBISON:  13 Object to form.  14 A. Yes.  15 MR. BIRKHAEUSER:  16 Q. Did you speak with anyone else at  17 Cal-Maine about your response to this topic?  18 A. No.  19 Q. Has Cal-Maine sponsored -- was  20 Cal-Maine the sponsor of any animal welfare  21 studies?  22 A. Cal-Maine -- I think the general  23 answer is no. Cal-Maine did support -- there  24 was a large fundraising effort to raise money  25 for a new facility at Michigan State recently,</p>
<p style="text-align: right;">Page 147</p> <p>1 other than yourself met with members of the UEP  2 scientific advisory committee?  3 MR. ROBISON:  4 Object to form.  5 A. I contacted within our company Dolph  6 Baker and also Dr. Ryn McDonald to ask them to  7 be sure about -- if they knew of any time we  8 might have had contact. And based upon their  9 responses and my own personal knowledge of the  10 situation, we have had -- the only time that  11 we've been in or around the welfare committee,  12 the scientific animal welfare committee, is  13 during meetings as documented that they might  14 have attended some of our meetings, some of our  15 producer meetings.  16 MR. BIRKHAEUSER:  17 Q. So the only contacts that any  18 Cal-Maine employees have had with the scientific  19 advisory committee has been pursuant to other  20 UEP meetings for which there are minutes that  21 have been prepared.  22 MR. ROBISON:  23 Object to form.  24 A. Yes. I don't think it's worth  25 mentioning, but I will. Dr. McDonald mentioned</p>	<p style="text-align: right;">Page 149</p> <p>1 and we contributed to that. And that's -- that  2 was three or four years ago. That facility is  3 finished. And it was for the purpose of doing  4 animal welfare studies.  5 Other than that, we have contributed  6 to other university studies, but not for animal  7 welfare. We've supplied chickens for study to  8 Auburn University and to Mississippi State  9 University. And we have encouraged some  10 equipment suppliers to donate equipment in small  11 amounts to these universities for the purpose of  12 having facilities on their farm for which they  13 do testing.  14 Q. Cal-Maine did not sponsor any animal  15 welfare studies in connection with the animal  16 welfare requirements promulgated by the UEP; is  17 that correct?  18 A. If I understand you, no.  19 MR. BIRKHAEUSER:  20 All right. That's all I have. Thank  21 you very much. Why don't we go off the record.  22 MR. AHERN:  23 We don't need to go off the record.  24 Is that all right?  25 MR. ROBISON:</p>

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<p style="text-align: right;">Page 150</p> <p>1        Oh, yeah. Sure.</p> <p>2 VIDEOGRAPHER:</p> <p>3        We have nine minutes.</p> <p>4 MR. ROBISON:</p> <p>5        People on the phone, we're just</p> <p>6 switching questioning lawyers. We're not taking</p> <p>7 a real break.</p> <p>8        CROSS-EXAMINATION</p> <p>9 BY MR. AHERN:</p> <p>10      Q. Mr. Storm, my name is Patrick Ahern.</p> <p>11 We met earlier.</p> <p>12      A. Yes, we did.</p> <p>13      Q. The court reporter has handed you</p> <p>14 what's been marked as Exhibit 115. It is a copy</p> <p>15 of the Cal-Maine's and Rose Acre's Counterclaim</p> <p>16 Against Certain Direct Action Plaintiffs in this</p> <p>17 case. Have you seen that document before?</p> <p>18        (Exhibit 115 marked.)</p> <p>19      A. Yes.</p> <p>20 MR. ROBISON:</p> <p>21        What are we doing here? This isn't</p> <p>22 part of our 30(b)(6) notice.</p> <p>23 MR. AHERN:</p> <p>24        I was just going to ask him if he's</p> <p>25 he's seen it before, if he had any input into</p>	<p style="text-align: right;">Page 152</p> <p>1        Object to the form.</p> <p>2      A. You know, I'm not sure how to answer</p> <p>3 that. I have knowledge of the development of</p> <p>4 the animal welfare program and how it occurred.</p> <p>5 We've discussed that over the last couple days.</p> <p>6 MR. AHERN:</p> <p>7      Q. Right. In addition to that, are</p> <p>8 there any other facts that you have -- knowledge</p> <p>9 of facts that you have that relate to the</p> <p>10 allegations contained in the counterclaim?</p> <p>11 MR. ROBISON:</p> <p>12        Same objection.</p> <p>13      A. That's very general. I don't -- I</p> <p>14 can't think of anything. If you had a specific</p> <p>15 item, I would know.</p> <p>16 MR. AHERN:</p> <p>17      Q. Were you aware, Mr. Storm, that in</p> <p>18 November of 2010 that certain direct action</p> <p>19 plaintiffs filed lawsuits against Cal-Maine and</p> <p>20 other egg suppliers?</p> <p>21 MR. ROBISON:</p> <p>22        Objection.</p> <p>23      A. I know that happened at some point,</p> <p>24 yes.</p> <p>25 MR. AHERN:</p>
<p style="text-align: right;">Page 151</p> <p>1 it, if he has any knowledge of any facts</p> <p>2 relating to it.</p> <p>3 MR. ROBISON:</p> <p>4        I'm going to object on this as being</p> <p>5 outside the scope of the notice.</p> <p>6 MR. AHERN:</p> <p>7      Q. Have you seen this document before?</p> <p>8      A. I saw it for the first time on</p> <p>9 Tuesday.</p> <p>10     Q. Did you review it before it was filed?</p> <p>11     A. When was it filed?</p> <p>12     Q. A long time ago.</p> <p>13     A. No. I've never seen it before last</p> <p>14 Tuesday --</p> <p>15     Q. A few months ago.</p> <p>16     A. -- Tuesday of this week.</p> <p>17     Q. So you didn't have any input into</p> <p>18 this document?</p> <p>19     A. None whatsoever.</p> <p>20     Q. Other than what you already testified</p> <p>21 to here in the last two days, do you have any</p> <p>22 knowledge of any facts that relate to this --</p> <p>23 that support the allegations in this</p> <p>24 counterclaim?</p> <p>25 MR. ROBISON:</p>	<p style="text-align: right;">Page 153</p> <p>1      Q. All right. And after those lawsuits</p> <p>2 were filed, did Cal-Maine ever produce non-UEP</p> <p>3 certified eggs?</p> <p>4 MR. ROBISON:</p> <p>5        Object to form. Outside the scope of</p> <p>6 the notice. Foundation.</p> <p>7      A. To my knowledge, we have not -- well,</p> <p>8 we have not produced any non-certified eggs</p> <p>9 since we entered the program because we are</p> <p>10 certified continually through that time.</p> <p>11 MR. AHERN:</p> <p>12     Q. Okay. So the question is, after the</p> <p>13 lawsuits were filed, did Cal-Maine ever produce</p> <p>14 non-UEP certified eggs?</p> <p>15 MR. ROBISON:</p> <p>16        Same objections.</p> <p>17     A. No.</p> <p>18 MR. AHERN:</p> <p>19     Q. Did Cal-Maine ever consider producing</p> <p>20 non-UEP certified eggs?</p> <p>21 MR. ROBISON:</p> <p>22        Same objections.</p> <p>23     A. I don't know.</p> <p>24 MR. AHERN:</p> <p>25     Q. Were you ever part of any such</p>

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1 consideration? 2 A. No. 3 MR. ROBISON: 4 Same. 5 MR. AHERN: 6 Q. And did Cal-Maine ever consider 7 whether to produce non-UEP certified eggs and 8 UEP certified eggs? 9 MR. ROBISON: 10 Same objections. Outside the notice. 11 Lacks foundation. 12 A. I would not be a part of that 13 decision. 14 MR. AHERN: 15 Q. Okay. So you were not part of any 16 discussion relating to that, correct? 17 MR. ROBISON: 18 Same. 19 A. No. 20 MR. AHERN: 21 Q. Now, Cal-Maine can produce non-UEP 22 certified eggs, correct? 23 MR. ROBISON: 24 Same objections. Outside the notice. 25 Speculation. Foundation.	Page 154	1 MR. AHERN: 2 Q. But you haven't been privy to any 3 such discussions. 4 MR. ROBISON: 5 All the same objections. 6 A. None at all. 7 MR. AHERN: 8 I have nothing further. 9 MR. ROBISON: 10 Anybody on the phone? Any questions? 11 MS. HANSON: 12 Not from me. 13 MR. GREEN: 14 No. 15 MR. ROBISON: 16 All right. We are wrapped up. We're 17 finished. And we'll sign and return as usual. 18 Just real quick, what do y'all want 19 to do about confidentiality designations between 20 now and when we designate? I can't remember if 21 the protective order designates them 22 automatically or -- 23 MR. BIRKHAEUSER: 24 I can't either. I've never been 25 asked that question in this case.	Page 156
1 A. Well, I don't know. I mean, if -- 2 we're a certified program, and we're compliant 3 with those procedures, so they just are 4 certified. 5 MR. AHERN: 6 Q. Setting aside the UEP certified 7 program, if Cal-Maine wanted to produce non-UEP 8 certified eggs, it could do that, correct? 9 MR. ROBISON: 10 All the same objections. 11 A. I would think so. 12 MR. AHERN: 13 Q. All you got to do is put more birds 14 in the cages, right? 15 MR. ROBISON: 16 Same objections. 17 A. Well, and other things, yes. 18 MR. AHERN: 19 Q. All right. But Cal-Maine has not 20 thought to do that since the lawsuits were 21 filed, correct? 22 MR. ROBISON: 23 All the same objections. 24 A. I don't know what Cal-Maine has 25 thought to do.	Page 155	1 MR. GREEN: 2 Are we on the record? 3 MR. ROBISON: 4 Yeah. We're still on the record 5 because I want to designate if we're going to 6 designate while we're on the record. 7 Let's do highly confidential, just to 8 be safe, in case there's some fact that some 9 party in the case would want to be highly 10 confidential. And then when we get the 11 transcript, we'll do the normal designation, if 12 that's acceptable. 13 MR. AHERN: 14 That's fine. 15 MR. ROBISON: 16 All right. Now we're really off the 17 record. 18 VIDEOGRAPHER: 19 This concludes the videotape 20 deposition of Steve Storm consisting of three 21 tapes. We are now going off the record. The 22 time is 2:35 p.m. 23 (Deposition concluded at 2:35 p.m.) 24 25	Page 157

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<p style="text-align: right;">Page 158</p> <p>1        CERTIFICATE OF COURT REPORTER  2        I, CELESTE O. WERKHEISER, Registered Merit  3        Reporter and Notary Public, in and for the  4        County of Hinds, State of Mississippi, hereby  5        certify that the foregoing pages contain a true  6        and correct transcript of the testimony of the  7        witness, as taken by me at the time and place  8        heretofore stated, and later reduced to  9        typewritten form by computer-aided transcription  10       under my supervision, to the best of my skill  11       and ability.</p> <p>12       I further certify that I placed the witness  13       under oath to truthfully answer all questions in  14       this matter under the authority vested in me by  15       the State of Mississippi.</p> <p>16       I further certify that I am not in the  17       employ of, or related to, any counsel or party  18       in this matter, and have no interest, monetary  19       or otherwise, in the final outcome of the  20       proceedings.</p> <p>21       Witness my signature and seal, this the 9th  22       day of May, 2014.</p> <p>23  24</p> <p style="text-align: center;">Celeste O. Werkheiser, RMR, CSR #1307  25       My Commission Expires May 6, 2015</p>																																																								
<p style="text-align: right;">Page 159</p> <p>1        ACKNOWLEDGMENT OF DEPONENT  2        I, STEVE STORM, do hereby certify  3        that I have read the foregoing transcript of my  4        testimony taken on 4/25/14, and further certify  5        that it is a true and accurate record of my  6        testimony (with the exception of the corrections  7        listed below):</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding: 2px;">8</th> <th style="text-align: left; padding: 2px;">Page</th> <th style="text-align: left; padding: 2px;">Line</th> <th style="text-align: left; padding: 2px;">Correction</th> </tr> </thead> <tbody> <tr><td style="text-align: left; padding: 2px;">9</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">10</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">11</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">12</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">13</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">14</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">15</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">16</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">17</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">18</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">19</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">20</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> <tr><td style="text-align: left; padding: 2px;">21</td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td><td style="text-align: left; padding: 2px"></td></tr> </tbody> </table> <p style="text-align: center;">STEVE STORM</p> <p>22       SUBSCRIBED AND SWORN TO BEFORE ME  23       THIS ____ DAY OF _____, 20____.</p> <p>24</p> <p style="text-align: center;">25 (NOTARY PUBLIC)      MY COMMISSION EXPIRES:</p>	8	Page	Line	Correction	9				10				11				12				13				14				15				16				17				18				19				20				21			
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